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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, You know all about us. You know when we sit down and when we rise up. You know when we sin and when we obey. Give us Your Holy Spirit to purge us from every wrong thing, that our lives will glorify You.

Today, guide the steps of our lawmakers. Help them to run when they can, to walk when they ought, and to wait when they must. Open their minds to discern Your will and make them ready to do it. In everything, do through them what is best for our Nation and the advancement of Your kingdom in our world.

We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 14, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following the remarks of Senator MCCONNELL and myself, there will be a period of morning business for up to an hour. Senators will be allowed to speak for up to 10 minutes each, with the exception of Senator FEINSTEIN, who will control the full 30 minutes on the Democratic side. The next 30 minutes will be under the control of the Republicans. Following morning business, the Senate will resume consideration of the credit card legislation.

Last evening, I filed cloture on the substitute amendment and on the underlying bill. That was under rule XXII. Because of that, the filing deadline for germane first-degree amendments is at 1 p.m. today. I hope we can reach agreement to have that cloture vote today. It is scheduled for the morning. If we can't do it in the morning, we will have to do it Tuesday morning because of the Senate schedule. If we complete that cloture vote tonight, we would be able to finish the germane amendments Tuesday morning and move on to other matters we have to do next week before we take our Memorial Day recess. We want to be able to leave here, if at all possible, on Thursday of next week. People have things scheduled. But we may have to work into Friday. I hope not. I hope we

don't have to work into Saturday. But we have to do this credit card legislation, the financial fraud. We have been in contact with Republicans. They will have a number of amendments. They want it to come back from the House. There will be some amendments in order. I have spoken to the Republican leader on that, and they are going to try to get us those amendments as quickly as possible. Hopefully this morning we can set that up to complete that legislation quickly.

Then, of course, we have to do the supplemental appropriations bill. I hope that is not going to be controversial. It will be marked up in the Senate today, and then we will have the ability to look at what the House and Senate did before it comes to the floor here.

There are a number of issues that will be discussed. I hope there aren't any that should take a lot of time, but we will see.

That is our workload this work period. I hope we can work through this, as much as we can get done today. If not, we can complete a lot of the work on tomorrow and Monday even though there will be no votes on those days.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### GUANTANAMO

Mr. MCCONNELL. Madam President, last night we learned that the supplemental war spending bill the Senate will take up contains \$80 million to be used for closing Guantanamo. But the language of the bill acknowledges what Republicans have been saying for months: The administration has no plan to safely close this secure detention facility.

Closing Guantanamo without a safe alternative would be irresponsible,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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dangerous, and unacceptable to the American people. Americans are worried that closing Guantanamo by an arbitrary deadline won't keep them as safe as Guantanamo has. They are particularly worried about the administration's reported plan to transfer some detainees to detention facilities right here on American soil. State and local officials in places such as Louisiana, California, Virginia, and Missouri have been introducing resolutions to keep terrorists from coming to their communities.

One look at the experience that Alexandria, right across the river here, had a few years ago during the trial of 9/11 conspirator Zacharias Moussaoui makes it easier to see why all these communities are so concerned. Moussaoui was just one terrorist. Yet the effect his presence had on the city of Alexandria was enough for the city's current mayor to state emphatically that he is absolutely opposed to relocating prisoners from Guantanamo to Alexandria. "We had this experience," he said recently. "Let someone else have it."

According to press accounts, housing Moussaoui turned parts of Alexandria into a virtual encampment. Every time he was moved to the courthouse, he was transferred in a heavily armed convoy that shut down traffic and locked down the surrounding community.

One security expert recently told the Washington Post that housing detainees from Guantanamo would likely be even more complicated than it was for Moussaoui, with more locations for security personnel to cover and even more snipers.

According to the same Post article, one of Moussaoui's lawyers said that bringing just two or three Guantanamo detainees to Alexandria would be a "major headache." Alexandria's sheriff has warned that multiple detainees could "overwhelm the system."

Based on the Moussaoui experience, local business owners in Alexandria also think the arrival of detainees from Guantanamo could be a serious drag on commerce. But even more worrisome for residents is the concern that housing detainees in Alexandria could invite terrorist attacks.

I ask unanimous consent to have the Washington Post article I am referring to entitled "Security Worries in the Suburbs, Possible Move of Terrorist Suspects to Alexandria for Trial Raises Outcry" printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 25, 2009]

#### SECURITY WORRIES IN THE SUBURBS

(By Jerry Markon)

An outcry is growing in Alexandria over a prospect no one seems to like: terrorist suspects in the suburbs.

The historic, vibrant community less than 10 miles from the White House markets itself as a "federal friendly zone." But it has turned decidedly unfriendly to news that the Obama administration might move some de-

tainees from their highly controlled military fortress at Guantanamo Bay, Cuba, to Alexandria to stand trial at the federal courthouse.

"We would be absolutely opposed to relocating Guantanamo prisoners to Alexandria," Mayor William D. Euille (D) said. "We would do everything in our power to lobby the president, the governor, the Congress and everyone else to stop it. We've had this experience, and it was unpleasant. Let someone else have it."

The 2006 death penalty trial of Zacarias Moussaoui, who was convicted of conspiring in the terrorist attacks of Sept. 11, 2001, turned the neighborhood into a virtual encampment, with heavily armed agents, rooftop snipers, bomb-sniffing dogs, blocked streets, identification checks and a fleet of television satellite trucks.

President Obama has vowed to close Guantanamo by January, and the government is reviewing files on the roughly 240 detainees. The administration has strongly indicated that some will be transferred to federal courts, and a senior Justice Department official recently named Alexandria, along with Manhattan, as possible destinations.

Alexandria Sheriff Dana A. Lawhorne, who operates the city jail, said federal security requirements for housing suspects could "overwhelm the system" if multiple detainees are brought there.

City officials and some legislators are concerned that terror trials would take years, shut down roads and cost millions and could invite attacks from terrorist sympathizers. Business owners in the dense area around the courthouse—newly filled with hotels, restaurants and luxury apartments—fear disruptions amid a declining economy.

Local officials acknowledged that they cannot control the docket at the federal courthouse and said they would work with the Justice Department to minimize problems. But the resistance in Alexandria, one of the few places known for handling high-level terrorism and national security cases, illustrates some of the practical complexities facing the president's plan to shutter the controversial detention facility.

The Guantanamo detainees include the five accused planners of Sept. 11, among them former al-Qaeda operations chief Khalid Sheikh Mohammed. Putting detainees on trial in Alexandria would mean moving them from an isolated island prison 90 miles from Florida to a neighborhood brimming with residents, thousands of federal employees and the new Westin Alexandria Hotel 190 feet from the courthouse door.

"It would be a disaster," said Rep. Frank R. Wolf (R-Va.), who co-sponsored legislation to ban the use of federal funds to transfer detainees to Virginia detention facilities, one of at least 10 similar bills filed by Republicans nationwide. In a March 13 letter to Attorney General Eric H. Holder Jr., Wolf questioned how officials would protect the community.

Dean Boyd, a Justice Department spokesman, said the administration is reviewing how to handle Guantanamo detainees. "It's far too early to speculate on the final disposition of any particular detainee at this time, much less begin speculating about potential judicial districts for prosecution," he said. He declined to comment on Wolf's letter.

Matt Branigan, president of Fairfax-based Watermark Risk Management International, said that the security could cost millions and that a courthouse in a less-populated area would be safer than Alexandria.

"The concern is that someone from the terrorist side of things would want to make some statement in conjunction with the trials," said Branigan, a former senior Air

Force anti-terrorism officer. He said the new development in the area "makes the security plan much more complicated. You have more locations to cover, more roofs to lock down with snipers."

When the Alexandria jail, an eight-story red-brick building adjacent to the Capital Beltway near the Woodrow Wilson Bridge, opened in 1987, the area had been a city dump.

"The idea wasn't that you were going to house terrorists," Lawhorne said. "It was a local jail."

The 10-story federal courthouse opened a few blocks away in 1996 in what had been a field of mud. The chief judge brought bag lunches to work because there were so few restaurants nearby.

Major terror trials were held in Manhattan in those days, but Alexandria became the Bush administration's courthouse of choice after hijacked airplanes slammed into the World Trade Center and the Pentagon. Northern Virginia jurors and judges were considered more conservative, and officials thought the area was more secure.

By early 2002, about a dozen terrorist suspects were held at the jail, which by contract accepts up to 150 federal inmates, and more if it can. Moussaoui, who spent 23 hours a day inside his 80-square-foot cell, was constantly monitored and never saw other inmates. An entire unit of six cells and a common area was set aside just for him.

"It was a real hassle," said Alan Yamamoto, one of his lawyers. "Bringing even two or three or four people over there is going to be a major headache."

Lawhorne said he would discuss any requests to hold Guantanamo inmates with city officials.

"It would be a very extremely high-risk situation for us. . . . My first obligation is to protect the interests of the city," said the sheriff, who added that he would do what he can: "You can't run the other way when your country calls."

The 450-inmate jail was locked down every time Moussaoui was moved to the back of the nearby courthouse in a heavily armed convoy. Traffic was stopped as snipers watched from rooftops. The route from the jail is much denser today.

On a single block behind the courthouse, there is a luxury 326-unit apartment complex with a Fed Ex/Kinko's, cleaners and cafe on the first floor; an office building with room for ground floor retail; another office building; and a Marriott Residence Inn. All opened within the past 18 months.

Pramod Raheja, owner of Intelligent Office on the ground floor of one building, said he would "strongly oppose" bringing Guantanamo detainees to the neighborhood.

Directly in front of the courthouse, in a thriving community near Old Town known as Carlyle, the Westin anchors a virtually all-new block with a coffee bar, an upscale restaurant, a condominium complex with units costing more than \$1 million and a Thai restaurant. A Starbucks is opening this month. The new U.S. Patent and Trademark Office complex, with more than 7,000 employees, starts on the next block.

"I've never agreed with people who say 'not in my back yard,' but there are just too many people around here," said Jim Boulton, president of the unit owners association at the Carlyle Towers condominium complex, which has been trying to get the government to remove security barriers left over from the Moussaoui trial. "They need to find someplace else."

Mr. MCCONNELL. The problems that one terrorist caused for Alexandria could be duplicated in any city or town to which detainees from Guantanamo

are sent. Although the administration hasn't given us any details on which cities or towns they might choose, we can imagine what they could look forward to, based on Alexandria's experience with Moussaoui. So here is what a community would have to experience: heavily armed agents patrolling local neighborhoods, rooftop snipers, streets locked down and access to local businesses cut off, identification checks and bomb-smelling dogs checking cars, millions of dollars in cost and strained local resources. That is what you get when you have a terrorist in your hometown. Kentuckians don't want to live under these conditions. I doubt any other American would either, especially if we consider that any community that becomes a home to these detainees could have to endure these conditions for literally years, given the possible length of terror trials.

Some of the other locations that have been mentioned as possible destinations for the terrorists at Guantanamo include facilities in South Carolina and Kansas. One local official in South Carolina responded to the possibility by saying he didn't have the police resources to deal with an influx of terrorists from Guantanamo. An official in Kansas said Guantanamo detainees would significantly tax his police resources.

The administration claims that closing Guantanamo and transferring some detainees to U.S. soil would make the American people safer. It is hard to understand that statement. But based on the experience of Alexandria, it is easy to see why many Americans are skeptical. The administration has said that when it comes to Guantanamo, its highest priority is the safety of the American people. But safety is our top concern. The administration should rethink its plan to transfer terrorists to American communities.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees, with the Senator from California, Mrs. FEINSTEIN, controlling the majority time and the Republicans controlling the second half.

The Senator from California.

(The remarks of Mrs. FEINSTEIN and Mr. SCHUMER pertaining to the introduction of S. 1038 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. FEINSTEIN. Thank you, Madam President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I applaud my colleague from California for raising this issue. This is one that has been here since I have been here, and we have seen it a number of times and we are seeing the effects of this. I applaud her leadership in bringing this forward. It is a serious issue. It is a serious matter. It is one that has significant consequences to our overall economy across the country—in California, in Kansas, my State—in New York, and other places.

#### GUANTANAMO

Mr. BROWNBACK. Madam President, I rise to address an issue that is front and center for us. It is the Guantanamo Bay detainees. Tomorrow I will be leading a congressional delegation to Guantanamo to look at the facility there. We will bring this issue up—it will be up next week in the supplemental appropriations bill—the effort of the administration to close Guantanamo Bay, which most of the American public do not support. I realize it is quite popular in Europe to close Guantanamo Bay. I would hope we would start to get a more factual setting on this issue.

I would also hope, and I would invite the administration to engage all of us here in the Senate—certainly I am willing to be engaged—about what we can do with the detainees. They need to be treated humanely. They need to be treated appropriately under international conventions. They do not need to be brought to the United States.

We do not have a facility in the United States to be able to hold these detainees in a way and in a situation that would be safe for the people of the United States. We are not prepared to release these detainees because we have found so many of them back on the battlefield after they have been released. So there is a quagmire that exists as a result of the administration's efforts to close Guantanamo Bay to please foreign detractors who I don't believe will be pleased, even if the facility is closed. They will complain about the next facility. I would invite them to work with us—the administration to work with us—to come up with an acceptable solution to this difficult problem. I stand ready and willing to do that.

To borrow a phrase from Winston Churchill, the administration's detainee policies seem to me to be a riddle wrapped in a mystery inside an enigma. The administration started with a confident announcement that military commissions would end and Guantanamo's detainee facility would be closed. But according to a report in Saturday's Washington Post, the administration is preparing to restart military commissions.

That same report, however, also cited an unnamed lawyer who said that the

new commissions would be held on American soil, probably at military bases. Such a move would be a first step toward permanent transfer of detainees to the United States. Apparently, detainees would be moved to the United States whether or not the new commissions would be able to prevent the release of terrorists in the United States. Such a policy is truly an enigma.

I have not been briefed on these plans, and it is disappointing that unnamed lawyers apparently know more about the administration's plan than Members of Congress. The administration is famous for its willingness to talk with its opponents and have meaningful dialog on tough issues. I hope that desire to talk extends to detainee policy matters.

Detainee policy is too complicated and controversial to make decisions behind closed doors and have them be made by one party alone. It needs to be a bipartisan approach. As I said in January, when the administration announced its plans to close Guantanamo Bay, I believed policy changes must be made openly and transparently and in a bipartisan fashion to be credible. So far we have had riddles, mysteries, and enigmas, but no clear sense of direction. Now the American people are skeptical of what is going to happen.

A poll last month showed that just 36 percent of Americans agree with the administration's decision to close Guantanamo Bay. I am sure that number would be higher in Europe, but we don't represent the European people. Seventy-six percent oppose releasing detainees in the United States. Two weeks ago, Secretary of Defense Gates told the Appropriations Committee that he expects that every Member of Congress would oppose detainees being moved to his or her district or State. In fact, I learned in a written response from Secretary Gates yesterday that DOD will make no attempt to discuss detainee transfers with State and local officials until a final decision about where to put detainees is reached. As I said, the number was 66 percent opposing releasing detainees into the United States.

If my constituents in Leavenworth, KS, are any indication of the level of American concern over the administration's mysterious plans, Secretary Gates is right to be wary about negative reactions to detainees in the United States. Folks in Leavenworth are quite comfortable with tough criminals living in nearby prisons, but they see detainees differently. They don't want terrorists coming into Kansas. We are not set up to handle terrorist threats because of detainees coming to Fort Leavenworth.

The administration cannot and should not duck this debate. They need to tell the American people how their security is improved by bringing terrorists inside our borders. They need to be upfront about how detainees will be handled and where they will be housed.

Then the administration needs to listen to the American people before it charges forward.

Of course, a national debate on this issue should be based on facts. Just after last year's election, I invited members of the Presidential transition team to visit Fort Leavenworth to see for themselves why it could not handle a detainee mission. Nobody visited. Nobody even responded.

In January, I invited the President to Fort Leavenworth so he could hear the facts directly from the people who work and live at Fort Leavenworth. That invitation is still open.

I tried to provide some facts to Attorney General Holder during his confirmation hearing. I noted that Fort Leavenworth's primary mission is education, and that many international students of the command and general staff college will refuse to participate in military education programs if detainees are nearby. This could harm the interests of our Nation. Unfortunately, Fort Leavenworth is still being considered as a detainee destination.

I was pleased that Attorney General Holder made his visit to Guantanamo Bay in February and found out that it is, to use his words, "a professional and well-run facility." I would like for him to visit Fort Leavenworth, too, because the facts speak for themselves. It is not just that Fort Leavenworth should not have the detainees; it cannot take on this mission.

The Missouri River forms the eastern border of the post. The city of Leavenworth wraps around the other three sides. There isn't enough space in the existing maximum security prison wing to handle the Guantanamo detainees. The post doesn't have a hospital. It doesn't have adequate legal facilities. The fact is, the Fort Leavenworth idea just doesn't work.

In order to resolve all of the issues surrounding the Guantanamo detainees, we need a full debate with all of the facts available and everybody engaged. That means everyone needs to do their homework. I was pleased that our colleagues in the House rejected the administration's request for more than \$80 million in supplemental funding related to closing the Guantanamo detention facility. The House Appropriations Committee chairman was absolutely right to demand that the administration come to Congress and defend a concrete plan before we consider this request. We should not be in the business of spending taxpayer money on hypotheticals, especially in a matter as significant as moving terrorists inside the borders of the United States.

It is my hope that next week this body will vote on whether detainees should be moved to the continental United States.

I hope that we would vote against such a move. I believe there would be a strong bipartisan vote against such a move.

I am doing my homework as well, as I mentioned previously. I will be trav-

eling to Guantanamo Bay tomorrow. I have been to Fort Leavenworth many times. I want to see what we have accomplished at Guantanamo with the more than \$200 million in taxpayer funds in the last 8 years that we have spent on that facility. I want to understand what it takes exactly to operate a detainee facility that is "professional and well run," to use Attorney General Holder's statement.

When the supplemental reaches the floor, I hope we can have a full and informed debate over detainees. I hope we can agree to set aside the request for the funding of hypothetical detainee transfer plans. I hope we can agree that we are not ready to bring detainees to the United States. I hope we vote on that and send a clear message to the administration and to the American people, most of which oppose moving detainees to the United States.

If we poll different States on whether that State wants detainees moved to their State, they are overwhelmingly opposed—the States are—to moving detainees to their States. From my own State, I know we do not feel confident at all that we would be able to house the detainees in a safe fashion for the people of Kansas.

I hope we can set aside the arbitrary timeline for withdrawing detainees from Guantanamo Bay and do the hard work of determining what status detainees should have, how military commissions work, how long we are willing to hold detainees, and whether they might ever be released to threaten Americans again. This is a tough problem. The Bush administration wrestled with this for years. When I was on the Judiciary Committee, we wrestled with the issue of how to handle the legal rights of detainees. We have a situation that we haven't seen before. This is one where we have detainees who are enemy combatants but don't represent a foreign country. They are freelancing or in an organized effort not based in a country. Normally, in the past, we would have a conflict with another nation, and we would hold prisoners of war until the conflict is over, and then there would be a military exchange or an exchange of prisoners at the end or there would be trials for these combatants so they didn't go back on the battlefield.

We are still in the war on terrorism, despite efforts by the administration to rename it. Whether it takes place in Afghanistan, Iraq, and many other places; whether it is the Horn of Africa, where we are seeing problems, or Somalia, and in many other locations around the world, there is a dedicated terrorist force that doesn't represent a country which seeks to do us harm and kill American citizens and harm our interests. That continues to be the factual setting.

When people are released from Guantanamo, we are seeing them back on the battlefield, and it is like they have received a promotion. In Afghanistan, one of the leaders of the Taliban effort

was a person released from Guantanamo Bay. It is like this was a credentialing exercise. Now he is leading a broader group. We don't want that to take place. We don't want to release new commanders into the field.

In normal history, this wouldn't be an issue until the war itself was resolved. We have to figure out the military commissions. We tried multiple times, in various ways, to be able to give legal rights to individuals without revealing confidential information that would hurt our troops on the battlefield. We haven't found the appropriate route yet. I stand ready to try to do that. But I don't stand here willing to release people who will harm U.S. citizens. I don't think that is in our interest, and that is not our job.

I don't think it is our job to try to meet a European public's impression of a facility that our Attorney General believes is well run. It may have image issues that are taking place, but let's get actual facts. If the Europeans are that concerned about it, why don't they get more involved in Guantanamo Bay or be willing to take some detainees and not release them back onto the battlefield. I think this is one of the tough problems that needs to involve everybody. If there is an open debate and dialog—and the American people and interests should be our primary concern—we can resolve this but not by releasing detainees or putting them on U.S. soil, and certainly not by putting them at Fort Leavenworth, KS, where people are saying clearly that we cannot handle this. We are not prepared to do this.

It will hurt the primary mission at Fort Leavenworth and the education of our students and also the foreign military officers as well. We have students from Jordan, Egypt, Pakistan, and Saudi Arabia. These are students and army officers from those four countries. We get army officers from 90-some countries on a regular basis to Fort Leavenworth for training and for relationship building with U.S. military forces. When we go to joint exercises—and there is rarely one around the world that isn't a joint exercise—there is confidence and communication that is built up among the individuals. We have been told by these four countries—by students from these countries—if we move the detainees to Fort Leavenworth, KS, at the same place we are training future military leaders, they will pull their students out. We will defeat the purpose.

We need to be able to work with the Pakistani military, the Saudi military, and the Jordanian and Egyptian militaries. Now we will lose those officers because we move detainees to Fort Leavenworth, a place we are not set up to handle them. It will cost hundreds of millions of dollars, even if we could put a facility there, and the people in the community will feel threatened. This is an urban setting. For what? Why are we doing this? So we can make ourselves less secure and make ourselves

less effective around the world? So that we can please the European public with this move? That is the reason.

None of this makes any sense. We have invested \$200 million in the Guantanamo Bay facility that is well run. I don't know why we would do this. It doesn't make any sense. I think we ought to work on this in a bipartisan fashion and roll up our sleeves and see what is in the best American interests. Treating detainees humanely, rightly under the international conventions we have agreed to with other countries, yes, but not harming U.S. citizens or subjecting our military to recycled individuals who have been captured and put at Guantanamo Bay and released, and where we can meet them on the battlefield again as organizers and as people held up as examples to the terrorist fight.

We can do this but not with the direction that the administration is going in, and certainly not by excluding members of the other party.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT

Mrs. SHAHEEN. Mr. President, today I rise in support of an important small business amendment to the Credit Cardholders' Bill of Rights, amendment No. 1079. It would expand the truth in lending protections of this bill and cover our Nation's small businesses in addition to individual credit cardholders. I am proud to be a cosponsor of this amendment.

I thank Senators LANDRIEU and SNOWE, who are the chair and ranking member of the Small Business and Entrepreneurship Committee. I thank them for their leadership on this issue. I also thank Senators DODD and SHELBY for their tireless work on the Credit Cardholders' Bill of Rights.

This legislation is important because, as we have heard Senator DORGAN say so eloquently, we can no longer allow predatory and misleading lending practices to jeopardize American consumer credit. Reform of the credit card industry is truly long overdue, and the members of the Senate Banking Committee should be commended for bringing such a strong bill to the floor. I look forward to supporting it. But we need to make a change in the bill because small businesses are critical to America's economic recovery, and in States such as mine, small businesses are the anchor of our communities and our economy, providing the jobs and the services that

help families pay their bills and put food on the table.

Unfortunately, many small businesses in New Hampshire and throughout the country continue to struggle in today's economy. That is forcing layoffs and slowing our path to economic growth. I have met with small business owners across New Hampshire. They are small business owners who have excellent credit histories, but they cannot access much needed credit because of this economic crisis. Many small businesses have seen their credit lines reduced or even eliminated on short notice, preventing them from restocking their shelves and investing in future growth. Unfortunately, more and more small businesses are relying on credit cards to meet their cash flow needs.

I am proud to have led a successful effort to increase access to credit through the Small Business Administration's 7(a) Loan Program. But we must also ensure that small business owners have credit cards on which they can depend.

The Credit Cardholders' Bill of Rights makes important changes that will protect consumers from unfair practices such as arbitrary interest rate increases and unfair credit terms. This amendment simply expands Truth in Lending Act protections to small businesses with 50 or fewer employees.

As business owners across the country grapple with the economic recession, we must ensure that credit cards help, not hinder, our recovery effort. By protecting small businesses from unfair credit card practices, business owners will be better able to manage their cash flow, plan for future growth, and contribute to our economic recovery.

I urge my colleagues to join me, Senator LANDRIEU, and Senator SNOWE in support of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BUFFALO AIRLINE CRASH

Mr. DORGAN. Mr. President, yesterday we heard on the radio and in news accounts of the National Transportation Safety Board investigation of the crash that occurred in Buffalo, NY, of a commuter airline. I chair the Aviation Subcommittee of the Commerce Committee; Senator ROCKEFELLER is chairman of the Commerce Committee. I visited with him early this morning on this subject.

I was stunned yesterday to read and hear the results of the National Transportation Safety Board investigation. Last evening, I met with the families of some of those who lost their lives in that commuter airline crash.

I want to make a point that the things we now have learned about that

particular flight are very disturbing—the question of crew rest, the question of training, of safety issues. I am not here to suggest that when someone gets on an airplane today or tomorrow or anytime, they should worry about who is in the cockpit, but I do suggest this: In this case, what we have now learned is that one of the people in the cockpit traveled all night because the duty station was in New York and the person lived on the west coast. That person traveled all night from the west coast, stopping in Memphis, then on to New York, and then went on a flight. Well, one wonders about having an all-night flight. Many of us have it. I have been on red-eye flights from the West many times. But for a pilot in the cockpit to live on the west coast, fly to New York, and take an all-night flight, poses real questions for me in terms of crew rest.

The voices in the cockpit suggest that one of the people in the cockpit said that person had no experience with icing. Well, I have had a lot of experience with icing, and it is unfathomable to me that someone in the cockpit of a commuter airline would have no experience with icing if they are flying in the Northeast at a time of the year when icing would be present.

It appears from what we know that the person in charge of the cockpit on that airplane had 3 months of experience with that type of airplane. The question is not just experience but how much experience do you have in the cockpit of that type of equipment.

The copilot on that flight was paid \$16,000 a year. Think of that. A copilot was paid \$16,000 a year salary and worked part time in a coffee shop to make ends meet and lived with the parents in order to make ends meet. I don't know if most people understand this when they get on a commuter flight. A lot of flights in this country are on commuter airlines. You get on a plane that has the same markings on the tail and wings and fuselage of a major carrier, but in many cases it is not that carrier at all that is operating the flight. When people get on an airplane, they expect the same standard, the same standard of training, of crew rest, the same set of standards no matter what airplane they are on if they are flying commercially.

The Federal Aviation Administration has the responsibility to set standards and then enforce them. The National Transportation Safety Board investigation of the Buffalo crash has raised very serious questions that need to be resolved. As chairman of the Aviation Subcommittee, working with the chairman and ranking member of the full Commerce Committee, I intend to be very involved in investigating what is happening.

I don't say this to alert people to be anxious or excited about having to take a flight somewhere but as someone who flies a great deal. This disclosure about these issues on this flight is

very troublesome. I want every American to believe that when they walk onto an airplane, no matter the company, that the experience, the capability in the cockpit is such that they can have comfort. I don't care whether you are flying on an Airbus 320, a Boeing triple 7 or A-8, you ought to feel, as a passenger, that that experience, the crew rest, the capability with the airplane in the cockpit gives you a substantial margin of safety.

We have an unbelievable record in the skies across the country. We have had very few accidents. In recent years when we have had accidents, most of them have been with commuter airlines. I am not suggesting in any way that we get along without commuter airlines, but I believe the FAA has some significant questions to answer. I believe the FAA has a lot of work to do. We will now have a nomination hearing for Randy Babbitt to head the FAA. Frankly, the FAA has not had consistent leadership. I hope Mr. Babbitt will provide that. I expect during his confirmation hearing he will get a great many questions about these issues.

I will have more to say about what we will do in my subcommittee as well later today. I did want to mention that I have been stunned by what has been revealed by the National Transportation Safety Board about that crash in Buffalo, NY by that commuter carrier. The family members of those who perished in the crash obviously are very concerned as well by what has been disclosed. It is a service to this country for the NTSB to have done a complete investigation. It will provide for all of us a reminder that there is much yet to do in the FAA to make certain that we maintain a good record of safety going forward. That applies to the major airlines and just as well and equally to commuter airlines.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT

Mr. DURBIN. Mr. President, we are considering a bill which affects millions of Americans. It is about credit cards. We all have them. We all wonder each month, when we get a monthly statement, what in the world it means. I am a lawyer. I have been a legislator for a while. I couldn't even tell you what the back of my credit card statement says every month. But I know if you end up missing a payment, if you end up being late on a payment, the world can crash down on you, because I have gotten plenty of letters from peo-

ple around my State and the country about some of the things that happen when it comes to these credit cards.

I thank Senator DODD and Senator SHELBY. This is the first credit card reform legislation in how many years? Ever. That is a long time. It is overdue.

All of us know how much they have become a part of our lives, and all of us know how vulnerable we are when interest rates go through the ceiling, when they end up saying: Because you are a day late on your payment, unfortunately, you have to pay a penalty. Then there is interest on the penalty. And did we tell you there is interest on the interest on the penalty. You think it will never end—\$25, \$50, \$75.

Senator DODD, in this credit card reform legislation, does one of the most significant things for American consumers we have seen.

I want to offer an amendment. Understand, if you go to your local restaurant in your hometown and have a meal and pay for it with a credit card, the owner of that restaurant has to pay part of your bill to the credit card company and the issuing bank. It is called an interchange fee. So the owner of the restaurant doesn't get the \$20 that you put on the counter. That owner may end up paying several percent of that \$20 to the credit card company and to the bank.

When we created the original law in this area back in 1981, we said: It is OK for people in restaurants and other places to say to their customers: We will give you a discount if you pay in cash or by check. That is the law; right? It makes sense. The person who owns the restaurant says: I am only going to charge you \$18.75 instead of \$20 because you are paying in cash instead of with the credit card. That way I don't have to send part of your \$20 back to that credit card company.

That was the law, and it seemed to be a pretty good one. The credit card companies weren't happy with that. They didn't want people to get incentives not to use credit cards. They created new, legal entities for credit card companies that didn't quite fit into the 1981 definition so that they wouldn't be covered by the possibility of a consumer discount. And then, for those bold companies like that hometown restaurant that decided they still wanted to offer a cash discount, they piled up the rules on them at the credit card companies and said: If you don't advertise in just the right way, we will fine you. I can tell my colleagues, gas stations are being fined \$5,000 because they offered a discount of \$1 or \$2 to a consumer.

As a consequence, retail merchants came to us and said: Give us a break. If we are going to have a discount for cash or check, say so in the law so that we can offer this to the American consumer.

The credit card companies hate it like the devil hates holy water. It is like old Senator Bumpers from Arkansas used to say: Like the devil hates holy water. They don't want to change.

This bill will change a lot of things they don't like. Thank goodness. I hope the Members of the Senate will accept the amendment I am offering with Senator BOND of Missouri, a Republican, a bipartisan amendment that says: Merchants across America can offer a discount over credit cards for people who pay in cash, check, or with a debit card, which is the new checking account for many younger people.

That discount is going to help that establishment to be able to say to folks: Well, we can give you a break here on the product you just bought or the meal you just bought; and say to the consumers across America who are struggling in this economy: Here is a way to save a few bucks. You can pay in cash, and you will not have to pay as much as you would on a credit card.

I think that is a move in the right direction. I am glad retail merchants, large and small, all across America have rallied behind this amendment. Whether it is your gas station or a little shop in your hometown or the restaurant you go to, they will be able to say to you: If you pay in cash, check, or debit card, we can offer you discounts on your final bill. I think that is a good break for people across America that they can enjoy every single day if they want to, if that is the way they want to make the purchase. If they want to use the traditional credit card, that is up to them.

So this goes back to the original law, knocks away all of the obstacles put in the path of this law by the credit card companies, and basically says, this gives retail merchants across America a way to offer a discount to American consumers.

So I hope my colleagues on both sides of the aisle will join me on that amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

#### CLIMATE CHANGE

Mr. BARRASSO. Mr. President, I have in my hand a memo by Obama administration attorneys—a compilation of attorneys—from a number of different Federal agencies. It is marked "Deliberative" and "Attorney Client Privilege." This memo is well thought out. It is scientific as well as a legal critique of the decision by this administration to use the Clean Air Act to regulate climate change. The memo confirms the fears of every small business owner, every farmer, every school and hospital administrator, in both large and small communities, that the Obama administration knows that using the Clean Air Act to regulate climate change is bad for America. They know it, but for political reasons they have ignored the science. The consequences to our economy have also been ignored, as well as the impact on the American people.

I am going to be clear. To me, this memo is a smoking gun. This memo

makes clear statements about the dangers to America of using the Clean Air Act to regulate climate change.

The memo states:

Making the decision to regulate carbon dioxide under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities.

Should EPA later extend this finding to stationary sources, small businesses and institutions would be subject to costly regulatory programs. . . .

Costly programs.

The document also highlights that EPA undertook no "systemic risk analysis or cost-benefit analysis" in making their endangerment finding.

The White House legal brief questions the link between the EPA's scientific technical endangerment proposal and the EPA's political summary.

The EPA Administrator said in the endangerment summary that "scientific findings in totality point to compelling evidence of human-induced climate change, and that serious risks and potential impacts to public health and welfare have been clearly identified. . . ." But the memo states that this is not at all accurate. The memo actually questions—questions—the science behind designating carbon dioxide as a health threat, stating the scientific data on which the agency relies are "almost exclusively from non-Environmental Protection Agency sources."

The memo goes on to say that the essential behaviors of greenhouse gases are "not well determined" and "not well understood."

The memo says:

The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about the basic facts surrounding [greenhouse gases] seems to stretch the precautionary principle to providing regulation in the face of unprecedented uncertainty.

Under the same precautionary principle, the memo says the Environmental Protection Agency could "also regulate electro-magnetic fields and noise."

This memo confirms that the administration has ignored its own advice. It is looking to make up scientific facts to make a predetermined conclusion. This is politics trumping science. It is the American people who will ultimately pay the price.

I have long stated my concerns that using the Clean Air Act to regulate climate change is a bad idea for our country.

The Chamber of Commerce has stated that 1.2 million new entities such as schools, farms, hospitals, office buildings, big-box stores, enclosed malls, commercial kitchens, nursing homes, and small businesses—in both large and small communities—all would be captured under this preconstruction permit program under the Clean Air Act.

If only 1 percent of the 1.2 million major stationary sources of carbon di-

oxide in this country undertook new construction or modifications each year, well then, the agencies would have to process 12,000 permits every year. Given the EPA's statement in its Advanced Notice of Proposed Rulemaking in 2008 that 2,000 to 3,000 new permits could "overwhelm" the EPA and the States, how can permitting authorities handle the 12,000 they would have to look at? How can they handle 12,000 permits annually? The answer is, with everything they do and everything they stated, they cannot.

EPA Administrator Lisa Jackson says she is not planning to regulate small emitters. She says she can be targeted in what she regulates. But by what authority can the Environmental Protection Agency of this Nation not include all the emitters of carbon dioxide that meet the emission thresholds that are set out in the Clean Air Act? Strangely enough, not just the authors of the administration's legal brief but also environmental groups disagree with the Administrator of the Environmental Protection Agency because she says she can limit those and regulate those she chooses.

The Sierra Club's chief climate counsel stated last year that:

The Clean Air Act has language in there that is kind of [an] all or nothing if carbon dioxide gets regulated and it could be unbelievably complicated and administratively nightmarish.

The Center for Biological Diversity says:

The EPA has no authority [at all] to weaken the requirements of the [Clean Air Act] simply because its political appointees don't like the law's requirements.

I have warned the Administrator of the EPA that groups such as these will sue the EPA if the EPA does not capture both large and small emitters. She has dismissed these threats. This is despite the Wall Street Journal last week reporting that a representative of the Center for Biological Diversity stated that her group is prepared to sue for regulation of smaller emitters, such as farms, schools, hospitals, and nursing homes—and they will do that—if the EPA stops at simply going after the large emitters.

I have asked for a plan from the Administrator on how she will address losing court cases if the agency is sued for picking winners and picking losers. Her response in a committee hearing—this was this week—is that she cannot share with me any such plans they might have in that forum of a committee meeting. Well, I would ask the Administrator, if you cannot share information with the elected representatives of the 50 States, then in what forum can you share the information? None of this is in keeping with the transparency that has been promised under this administration.

Similarly, I have asked the person who has been nominated to head up the Air and Radiation Office, Mrs. Regina McCarthy, in the Environmental Protection Agency, the same question. Her

response was she cannot share with me her plans because she is not in the job yet. She has said she would like to be informed of potential suits and would then personally meet with anyone wanting to sue to convince them not to sue. Well, Government officials cannot go running around trying to convince every litigant—whether it be an environmental group or a local group that does not want something in their backyard—not to sue. This is not a good policy. This is not good enough.

I am seriously troubled with the administration and their approach to this issue. I have a hold on Mrs. McCarthy's nomination because this process of using the Clean Air Act to regulate climate change is flawed. There appears to be no plan to address it.

With the release of this internal document, we now know that the plan the administration has to address climate change is political and not scientific. They know that using the Clean Air Act to regulate climate change is bad for America. They choose to ignore the threat to America. They are playing a dangerous game of chicken with Congress and the American people.

Either we will all jump to pass the President's energy tax—his cap-and-tax plan—or we will crash head-on into this regulatory ticking timebomb. In the end, it will be the American people who will have to pay the price.

The administration has tried to convince the public to support this cap-and-tax proposal.

Charlie Munger, who is the CEO of Berkshire Hathaway—who works closely with Warren Buffett; they have been partners for years—stated that creating an artificial market in Government-mandated carbon credits would be a "monstrously stupid thing to do right now." And he said such a move is "almost demented."

Well, according to the Wall Street Journal, the administration has now consulted pollsters who advocate avoiding such phrases now as "cap and trade" and "global warming." The White House Council on Environmental Equality has also scheduled a meeting—earlier this week—with the president of ecoAmerica, a Washington-based nonprofit that uses—their terms—"psychographic research" to "shift personal and civic choices of environmentally agnostic Americans." This is a sign of desperation. The administration realizes the American people are not buying what they are trying to sell here. The consequences of this issue are too grave for America.

Mr. President, I would say take this regulatory ticking timebomb off the table. Let's pass legislation taking the Clean Air Act out of the business of regulating climate change. Then let's forge a plan in a bipartisan way that makes America's energy as clean as we can make it, as fast as we can do it, without raising energy prices for American families. Let's develop all of our energy resources—wind, solar, geothermal, hydro, clean coal, nuclear,

and natural gas. We need it all. We need an "all of the above" energy strategy to address our Nation's energy needs. I look forward to working with my colleagues to address those needs for our Nation.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRESS ON CREDIT CARD REFORM

Mr. DODD. Mr. President, I see my good friend from Alabama is here as well. I wanted to give my colleagues a little sense of an update. I know we are all anxious to know how we are progressing.

While we haven't had a vote this morning on any amendments, I think words of encouragement might be helpful at this juncture, to let Members know we are reaching agreement or have reached agreement on a series of amendments that will be incorporated into either a managers' amendment or some manner or form.

To give my colleagues an idea of the amendments being worked out: Senator COLLINS of Maine and my colleague from Connecticut, Senator LIEBERMAN, have an amendment on what is called "stored value" cards which we will reach an agreement on; Senator FEINSTEIN and Senator CORKER, along with Senator CASEY and Senator GRASSLEY, have an amendment on university—I believe the word is either "affiliates" or "attitudes." Anyway, it is dealing with younger people on university campuses and credit cards. We have either reached an agreement on that or are reaching one, but one will be reached on that as well. There is the amendment from Senator LEVIN dealing with deceptive advertising, which I think we have reached agreement on as well. Senator KOHL has an amendment for a study on the marketing of credit cards. Senator FEINSTEIN and Senator GREGG have an amendment on an emergency PIN program FTC study that has also either been agreed to or is in the process of reaching an agreement. Senator AKAKA has an amendment dealing with credit counseling standards. He has been a strong advocate of that for many years and we thank him for it. That is also an issue upon which we have reached some agreement. There is an amendment dealing with usury and an interest rate study which I will offer.

We had a vote yesterday on at least the waiver—we didn't actually have a vote on the Sanders amendment—dealing with a cap on interest rates set to the national credit union standard. I

supported the Senator's effort to waive the budget point of order for us to debate that. That is not to say I would have agreed necessarily with that specific amount, but clearly there is a strong desire in the country to get our arms around this issue of exorbitant interest rates. I thought maybe we ought to be doing it, because there are different institutions with different methods of calculating that. We probably ought to take a look at how we can do that in a more comprehensive manner. So there are a number of agreements.

I see my friend from Alabama. Our staffs worked together last night late into the evening and were able to sit down with Members on both sides of the proverbial aisle, as we talk about here, to reach an understanding. While we have not had a vote this morning on any amendments, work is being done to come to final conclusion on these amendments.

There are amendments that we have not reached agreement on. Let me say to my colleagues, cloture has been filed by the leader. My hope is we can finish this bill today. I have a list of 30 or 40 amendments here from Members who wish to offer them. We have a good bill. Is it a perfect bill? No. Is it a bill that Senator SHELBY would have written on his own? No. Is it one I would have written on my own? No. But, again, we have a product that is worthy of this institution's support. It is the first time we have dealt with reform of the credit card issuing industry. At a time when our fellow constituents are being hammered by rising costs, by fees and interest rate hikes that make it harder and harder for them to keep their families together economically, it is a major step forward and it is deserving of our support.

That is not to suggest that many of these amendments are not good ideas. It doesn't mean we have finished this debate once and for all, forever. Obviously, we will be back on these issues. We are in this Congress, and we will in the next as well. We want to see how this works. We believe it will work well on behalf of our fellow citizens. But at some point we need to get moving and get this done, even though it comes short of everyone else's ideal goal. I say that respectfully.

I have some Members with six or seven different amendments they want to offer. If that is the case, we will never finish this bill. I don't think that is in our interests. Every day we delay is a delay for the final enactment of this legislation or the imposition of its standards. Implementation is nine months from enactment. Every day we wait pushes that date further out at a time when we can help our fellow citizens in this matter of credit card reform.

I won't go back through all the provisions that are incorporated in the bill. I have done that several times. I think my colleagues are pretty well aware of what is included. This is a bipartisan

bill. People didn't think we could reach this point. We have done so. Once again, Senator SHELBY and I have worked together with our staffs to achieve that. This bill has been roundly endorsed and supported by every major consumer group in this country. That is no small achievement. So there ought to be a moment of pride here that we have put something together worthy of our support.

These amendments I have mentioned already which we can adopt, we will in either a managers' amendment or by some means by which they can be accepted, but then we need to take these other remaining amendments and I need to have colleagues decide whether they are willing to have them modified or studied or whether they are willing to have their amendments not be offered at this time. They can help considerably or we run the risk of losing this bill. I wouldn't have said that a day or so ago, but we are getting precariously close to that outcome: pushing this off to next week. We have the supplemental coming up. When the agenda is taken over by other items, it is very difficult to come back. So here we are on the cusp of actually achieving an unprecedented result and I don't want to see us lose that opportunity.

I urge my colleagues to step up and come give us a hand to try and move forward on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I wish to join in and associate myself with some of the remarks my colleague, the chairman of the committee, Senator DODD, has made. One, we have what we think, with the Dodd-Shelby substitute, is a step in the right direction. It is a step in the right direction for consumers. It is also a step in the right direction to bring balance to the credit card industry. Is it everything I would want from the Republican side? No, but it is not everything that Senator DODD and some of the Democrats would want. We have worked together to forge an outcome. We have put a lot of thought and a lot of work into this, as have our staffs, who have worked days and nights. We are close. We could pass this bill today if we could bring a few more people together. I think this is a milestone as far as protecting consumers, informing consumers, as well as to give some balance.

You cannot take risk out of the marketplace. You have to consider risk when you make loans. We have some of that in here. But we have great reforms in here that I think we can live with. Some people don't want a bill on both sides, or the others want something that is probably not achievable, not good for the economy, and not good for the American people. We have to remember that the credit card business does extend credit, to some extent, to people where that is their only credit. This bill will at least let them know a lot of the terms upfront. It will let

them know what they are paying, and so forth. It is a step in the right direction. I hope we can pass that bill. I would like to do it today.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank the managers of the bill for their good work. Their staffs have done a lot of hard work and put in a lot of time on the credit card bill. Their substitute amendment is a reasonable approach that protects consumers from abusive and deceptive lending practices, while allowing financial institutions to implement reasonable standards to account for credit risk.

I rise today to speak on behalf of the modified Durbin-Bond amendment to the Dodd-Shelby substitute. This amendment would clarify the fact that consumers are allowed to receive a discount for purchases using cash, check, or debit instead of credit cards.

All of our offices have heard from credit cardholders who are angry and confused about sudden interest rate increases, hidden fees, and obscure rules. Much of the anger and confusion stems from inadequate transparency in the financial system, which we are trying to address in the underlying bill.

It is not only individuals and families who are struggling with confusing credit card rules. Over the past several months, I have heard countless complaints Missouri merchants, especially small businesses, who believe they are powerless in negotiating credit card fees that are, in their view, unreasonably high and account for a significant portion of their revenue and may, in some instances, equal their profit. As credit card usage has grown to become the dominant form of payment, these fees have squeezed their financial situation.

Small businesses are especially feeling the stress of credit card fees as many of them operate at very thin profit margins. With small businesses being hard hit by the economic downturn and finding more difficulties in obtaining private financing from banks, this "fees squeeze" is being felt even more.

Small businesses play a major role in our economy by creating jobs and acting as the catalyst for innovation. In order for our economy to recover and sustain growth, and in order for our small businesses to put more Americans back to work, it is critical that their cost burdens be minimized.

That is why I have always been a supporter of small businesses and believe their tax burdens must be held down. It is for that reason that I believe action is needed to address the credit crisis by clearing out the toxic assets that clog our financial system.

My long-term and strong support for small businesses is the main reason I got involved in the merchant credit card fees last year, and I cosponsored legislation last year by Senator DURBIN

to address a key component of merchant fees, called interchange fees. Mr. President, these fees are generally set at around 2 percent. They have not decreased. And studies indicate that rates may have increased over time.

The Credit Card Fee Act of 2008 aimed at establishing a process to allow small businesses to negotiate so that fees could be set at reasonable rates. It was introduced by us. I have met, along with my staff, countless times with concerned stakeholders, credit card companies, banks who issue credit cards, and large merchants to small merchants. We have even held joint meetings with representatives of both sides. While we gained some understanding, key questions remain.

One key question is whether interchange rates are set in a competitive, market driven manner. Despite several months of meetings, we still don't have adequate information to answer that question or whether the fees are reasonable and fair. It was my hope that we would have been able to work out an agreement, but we have not been able to do so.

Chairman DODD has indicated that the issue of interchange fees will have to be addressed another day. He included in the substitute amendment a study by the U.S. Government Accountability Office to provide recommendations and information.

While interchange fees will have to wait for another day, I believe we can take some modest, commonsense steps, and that brings us to the Durbin-Bond amendment, which answers a major question that consumers, including me, and small businesses have raised. It answers the question of whether merchants can provide consumers a discount if the consumer chooses to use cash instead of credit. Current law permits cash discounts, but in practice it is difficult, at best, for merchants to offer this option due to confusion about the rules. Our amendment would ensure that cash discounts could be offered to consumers, and it would update the law so consumers can receive a discount for using debit cards, along with cash and checks, when making purchases.

It is also important to clarify some misconceptions about our amendment. First, contrary to what some poorly informed lobbyists have said, the language doesn't allow merchants to discriminate between certain brands or types of credit cards. It doesn't allow merchants to cut special deals with certain credit card issuers. This means the so-called "honor all cards" rule would be preserved and community banks and credit unions would not be unfairly affected.

To be clear, I strongly support our financial institutions that played by the rules and didn't participate in irresponsible and risky lending practices in recent years. That is why I was a strong supporter of the Dodd-Crapo-Bond language that raised the FDIC's line of credit so that community banks did

not have to pay higher fees to support the deposit insurance fund.

Second, the amendment language doesn't allow merchants to surcharge customers for using credit cards. In other words, the price displayed on products must be honored, and merchants can only provide discounts.

Third, and most important, this amendment doesn't harm consumers. In fact, this amendment is structured with most consumers in mind. Consumers will benefit from this provision since they will be given the ability to receive a discount for using less costly forms of payment and preserves the convenience of using all forms of payments. I believe that makes it a win-win for consumers.

Let me be clear so that there is no misunderstanding. This is not an interchange provision. This amendment doesn't allow surcharges. It doesn't give unfair competitive advantage to large banks at the expense of community banks and credit unions. It is not limited to the two largest credit card companies, MasterCard and Visa. Most important, this amendment won't harm consumers and the economy. In fact, the Bond-Durbin amendment is pro-consumer and pro-small business.

While we were unable to address interchange, I emphasize that the Durbin-Bond amendment represents a breakthrough. It also represents our good faith effort to work openly and constructively with all concerned parties with the goal of finding common ground on the issue. I continue to hope that stakeholders will make a good-faith effort to provide us hard data and information to help us understand better the interchange issue.

I am a strong believer in the private markets. But Missourians and other taxpayers across the Nation, as well as policymakers and experts, have significant questions about our private markets given the credit crisis that is at the root of the economic downturn. We cannot afford to take things at face value. Taxpayers deserve greater oversight on financial and business matters so that taxpayers are not asked to bail out irresponsible businesses, and small businesses do not feel that Government policy is unfairly weighted toward "too big to fail" companies.

This amendment is a small but important step. It helps Americans save money at the store. It gives American families more choices when they are checking out at the supermarket or cafe. It makes sure small businesses understand the rules and provides them some financial relief. It will provide immediate stimulus, since this is equivalent to a modest but broad tax break. I extend my appreciation to Senator DURBIN and his staff for their collaboration and cooperation in developing this amendment.

I strongly urge my colleagues to support the Durbin-Bond amendment, which is endorsed by small business groups and consumer groups.

I thank the managers and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Missouri. He is absolutely right. The interchange fees are a tremendously important issue. We have put in, at the urging of Senator CORKER on our committee, a thorough study of the interchange issue. It is complicated, and the Senator is correct. Among small businesses, this is a very onerous area and we need to address it.

I thought we needed to understand the fullness of the issue, so we talked about the study. Senators DURBIN, BOND, and others have a proposal that touches on the interchange issue. We are working with them to see if we can reach an agreement on that. We will make an effort to do that. I thank the Senator for his comments.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 627, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Pending:

Dodd/Shelby amendment No. 1058, in the nature of a substitute.

Landrieu amendment No. 1079 (to amendment No. 1058), to end abuse, promote disclosure, and provide protections to small businesses that rely on credit cards.

Collins/Lieberman amendment No. 1107 (to amendment No. 1058), to address criminal and fraudulent monetary transfers using stored value cards and other electronic devices.

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I have been on the floor often talking about the subprime loan scandal that

led to the financial crisis we are involved in, in this country. I have held up charts on the floor that describe the solicitations from the mortgage companies and others that say: Come to us. If you have bad credit, if you have been bankrupt, come to us. We want to give you a home loan.

I have shown all of those—from Zoom Credit, from Millennium Mortgage, from the largest mortgage company in the country, Countrywide—all of them saying to people: You know what, if you have bad credit come to us. We want to loan you some money.

That subprime loan scandal was a tipping point for a significant difficult time for this country's economy and that time includes right now. I have talked about that at great length. But today we are talking about credit cards. The same influence exists with respect to credit cards. We have companies that just wallpaper this country with credit cards. Go to a college campus and try to find out how many credit cards they stick on those college campuses preapproved, saying to these kids: Get our credit card, please. Walk through the concourse of an airport and see how often you are accosted by someone who wants you to take their credit card. It is all over.

Last year the economy tipped over, and we went right into a financial crisis. But in that year, 2008, 4.2 billion credit card solicitations were mailed to consumers. Let me say that again. In the middle of an economic crisis, at a time when there was so much unbelievable leverage and debt out there, companies in this country sent 4.2 billion credit card solicitations to people.

Yes, some of them went to kids. The fact is, I spoke on the floor years ago about my 10-year-old son getting a Diners Club card saying it is preapproved, we want you to consider going to Paris, France. My son wasn't going to France. As a matter of fact, he was 10 years old, for God's sake. He had no money. He wasn't going to get a credit card. Was it a mistake that they sent him a credit card solicitation? Probably. But I went to the floor one day with a whole pile of them, saying you are preapproved, please take this piece of plastic, spend it where you want, as much as you want. Madam President, 4.2 billion new credit card solicitations went out last year alone. They don't seem to care who gets them, as I said with home mortgages, which are much larger than most of the limits on credit cards. For home mortgages they solicited people with bad credit. You have been bankrupt? Come to us. You do not pay your bills? Come to us. That is a business model I never learned about, by the way, but it is what happened. They created the house of cards and the whole thing collapsed.

With credit cards, the big companies out there—and by the way it is heavily concentrated—wallpaper this country with preapproved credit card solicitations: Come to us, load up; come on, spend what you don't have on things

you don't need; come on, you can load up on my card.

Then when they got everybody with all these cards and substantial balances on the cards, here is what happened. This is a person from Minot.

My wife and I both have credit scores greater than 800 and have never been late on any of our payments so it is odd that Capital One just sent us a notice that our interest rate on our credit card will almost triple.

There they are, using a plastic credit card, paying their bills on time, and they are told we are going to triple your interest rate. At least they know it. That is not an excuse, but a whole lot of folks don't even know it.

Here is another constituent who wrote to me.

I just wanted to let you know how upset I am with my credit card company—Citibank. They have decided to raise my interest rate to 27 percent. I have always paid my bill on time and have a good credit rating—820. Why would a company who was bailed out by taxpayers because of bad practices then decide to stick it to us by raising the interest rate so high that it is competitive with the local Mafia rate?

There is no Mafia rate in Fairmont, I might say, but I get the point.

Williston, in my State:

Enough is enough. We shored up these banks with our hard earned tax dollars just to have them raise the interest rates on their credit cards to 28 percent and 26.3 percent—that's Bank of America and Capital One—for absolutely no reason. Something must be done.

One more:

I received a letter from my credit card company—

This person from North Dakota writes—

the Bank of America, that they are upping my interest rate from 7.99 to 18.4 on my credit card and we have not been late with a payment. We have been with them for 15 years. I want you to know I am really angry over this. Billions have been going to these banks and this is what we get for it.

Here is a solicitation for a bank debit card, Visa. You might look at that and say what are they trying to solicit? Some 70-year-old codgers who are retired, sitting around worrying about their teeth? No, they are trying to solicit kids. That is the purpose of the bow. It is a little like Joe Camel and cigarettes, except this is much more obvious, a credit card for kids. It is pink with a beautiful little bow.

Here is a statement from Bruce Giuliano, a senior vice president with a company that owned the Hello Kitty brand.

We think our target age group will be from 10 to 14 although it could certainly be younger.

How much younger than 10 years old can you get people to start using credit cards? That is unbelievable.

We think our target age group will be 10 to 14.

Here, by the way, is the Hello Kitty brand I was describing. Does it seem to you like they are targeting that 10-year-old to 14-year-old? It is a nice little pink thing with a kitty, new Platinum Plus Visa credit card with world

point rewards. If they could couple this with an airline and get 10-year-old kids flying to France, they would have what my son experienced, plus a pink credit card. It is unbelievable to me. We wonder why people are upset. You have a bunch of companies out there going after your kids to see if they can put plastic in their pockets, kids who never had a job and will never get a job—at least not when they are 10 years old—saying: Load up on debt.

Here, First Premium Card says:

Get our platinum credit card. We have a platinum card. Even if your credit is less than perfect.

Once again, a solicitation to say if you don't do so well paying your bills, we have a credit card for you.

Has anybody thought through that maybe this is what steered the country into the ditch? Has anybody thought about that? By the way, some of these financial companies are the ones that have gotten very large bailouts from the Federal Government.

This is interesting. This is a credit card, presumably, for somebody who does not pay their bills so well. So it is hard for them to get a credit card. Here is what they are going to do. It looks pretty good. It is actually a gold card with a \$250 total credit limit. The problem is the annual fee is \$48, the setup fee is \$29, the program fee is \$95, and the monthly servicing fee is \$7. So if you pay all these fees to that bank, you get to have a piece of plastic in your purse or your wallet that allows you to charge up to \$250. What an unbelievable opportunity for people who are not thinking or do not know or at least have been cheated by a company that suggests these terms.

This chart simply describes a college credit card. Everybody makes money on credit cards. That is why they accost you when you are going through the concourses at an airport—the airline is actually pushing credit cards. They are all making money on credit cards—including some colleges, by the way.

They wallpaper all of those college hallways with credit cards because if you can get someone at that age to start using credit cards with your company, then you have got them for a long period of time.

Now, 84 percent of undergraduates in college had at least one credit card, up from 76 percent in 2004. Midwestern students continue to carry the highest average number of credit cards, with more than half of the students—think of this—more than half of these college students have four or more credit cards. Again, a cultural lesson about debt? I don't think that is a lesson we want college students to understand. I am not suggesting college students should not have a credit card. I understand the value of that. But they ought to have a limit.

By the way, here is the other thing that happens with credit cards and college students. You cosign a credit card as a parent for the college student who

does not have a job, and it is not very long before the credit card company ups the limit to the college student without telling the cosigner. I know that is an interesting business practice, to be pushing additional credit toward those who do not have income, but it is part of the culture of this country, I guess.

Undergraduates are carrying record-high credit card balances. The average balance grew to \$3,100—the highest in the years the study has been conducted—and 21 percent of undergraduates had balances between \$3,000 and \$7,000.

My point is simple: This is some of the same culture and some of the same difficulty that has tipped this country's economy over, beginning with the subprime loan scandal in housing but very quickly going into credit cards.

Someone said to me a while back: You know something, nobody spends money like the Federal Government. I am talking about debt. The Federal Government has run up all of this debt. Shame on the Federal Government.

I said: I agree with you. This Government has to decide it can only deliver Government to the American people that the American people are willing to pay for. We cannot continue with these deficits.

But, I said, understand this: It is not just the Government. This culture has had a dramatic runup in household debt, a dramatic runup in corporate debt, you name it, all across the board, including trade debt.

But we are here today because Senator DODD has brought a bill to the floor with his colleague, Senator SHELBY, and they deserve great credit. They deserve a lot of credit from the American people for doing this. It is a piece of legislation that begins to put the brakes on, puts a bridle on those who are engaged in practices I have just described: aiming credit card solicitations at 10-, 12-, 14-year-old kids, wallpapering college campuses so that kids came up with four or more credit cards. The fact is many of these companies got involved in all of these unbelievable instruments—credit default swaps, CDOs, and shame on them. Shame on WaMu, shame on Wachovia, shame on the companies that did it. They are supposed to be banks. Banking is supposed to be reasonably conservative. Instead, they loaded up with unbelievable debt.

Now some of the same companies, by the way, that are putting credit cards out all over this country are saying to credit card customers: You know, I understand you have never been late, never missed a payment, been a customer for 20 years, but you know what, your 7.9 interest rate has now gone to 26 percent, and you are lucky we told you because some people are not going to know it. By the way, we are going to add some additional fees, and we do not care what you think about this.

This legislation says: No more. You cannot do that. It says: If you are

going to go in this direction—way overboard, in many cases cheating customers—then we are going to put the brakes on.

Some people say: Well, of what business is it of the Government?

Well, you know what, we have a responsibility, it seems to me, to stand up for consumers. In this case, you have some very large companies that have engaged in this business and now, in recent years, have decided to impose very substantial fees and very high interest rates, in a way that I believe takes advantage of the people. These people are good citizens, pay their bills on time, are conscientious about it, and now discover that the company they have had a relationship with for a very long time has imposed all kinds of dramatic penalties and fees that customer does not deserve.

So this legislation is legislation that I believe will pass the Senate with a very wide margin. Why? Because I think those companies that have done this have invited this today. They asked for it. This Congress has a responsibility to stand up for the interests of the American people.

I come from a State in which Teddy Roosevelt lived for a while, and he always said: Had it not been for my time in North Dakota, I never would have been President. He was a rugged guy, and he went out there and ranched in North Dakota.

By the way, he was in the depths of despair because both his mother and his wife died in his home on the same day in New York. Think of it, losing your mother and your wife the same day on different floors of the same home. He went out to try to renew his spirit in the Badlands of North Dakota. He became a rancher and later became President of the United States.

One of the things I remember him for and the country remembers him for is as a "trust buster," willing to take on the big interests, willing to stand up to the big interests when they rip into the interests of the American consumer, the American people. Thank God for what Teddy Roosevelt did in so many areas in trust busting.

In many ways, this is a smaller piece of that larger issue, taking on the bigger interests when they are taking on the American citizens in a way we believe is unfair and untoward.

So I came today simply to say to my colleagues, Senator DODD and Senator SHELBY, that I appreciate the work they have done. I am a strong supporter of this legislation, and I know we have some amendments back and forth. At some point, I am going to be proud to cast a "yes" vote.

I am not suggesting credit cards are bad—far from it. Credit cards are very helpful to the American people. I am suggesting there are some practices that have occurred that go way beyond that which is reasonable, and we are going to try to rein that in with this legislation.

Mr. CARPER. Madam President, I rise to speak for several minutes on the

legislation that is before us today dealing with credit cards, something that most of us have a personal experience with—we use them; we have had good experiences and bad experiences. In some respects, those experiences guide our views with respect to how we should legislate. That is understandable. It is true with me too.

Earlier today, I had a chance to participate in a number of call-in radio shows, some specific to Delaware, one to the Delmarva Peninsula, and one a national call-in show. People raised a variety of different issues about the legislation we are debating. What I did with some of the listeners, I took them back to the beginning and said: The reason why this legislation is before us actually grew out of the work of the Federal Reserve, which was begun over 2 years ago. The Federal Reserve sought to use their authority under the—I think it was the Federal Trade Commission law that says they have a responsibility to protect consumers. That includes protecting consumers as they use credit cards.

For roughly 2 years the Federal Reserve held hearings, received input from consumer groups, from individuals, from the industry, from other regulators, as to how we might better protect consumers.

In the end, the Federal Reserve sought to strike a balance. They sought to strike a balance that was fair to consumers and better protected their interests, which need to be better protected, and at the same time not to further disadvantage our financial institutions in this country, many of which are struggling literally to survive. That was the balance the Federal Reserve sought to strike. The Federal Reserve promulgated regulations last December after literally receiving tens of thousands of pages of comments on the draft regulations they promulgated earlier, last year.

What we are doing now is, rather than simply waiting on the Federal Reserve regulations to be implemented between now and July 1 of 2010, Congress is seeking to codify, to literally turn into law those regulations and in some cases to move the effective date of those regulations up earlier and in some cases to add some provisions that were not covered by the regulations.

One of the changes that is affected in this regulation was not raised in the regulation. It deals with credit cards and kids. It is really credit cards and people under the age of 21. My boys are 19 and 20. They are in college. They have been receiving preapproved credit card applications for a number of years, including when they were in high school. I think Senator DODD has talked about one of his girls, who I think is 7 or 8 years old, having received a preapproved credit card application at the tender age of 7 or 8.

The question is, do we need to do something differently? It is interesting that the Federal Reserve, in their regulations, did not think so. The legisla-

tion which comes out of the committee and comes to us for consideration says, no; we should do something. What the legislation calls for, for us to do differently in this country, is if a young person, under the age of 21, wants to sign up for a credit card, either, No. 1, their parent or guardian has to cosign for them, with them, for that credit card, or, No. 2, the young person has to demonstrate the ability to pay their debts.

For the most part it means have a job, have a source of income to pay their debts. That is something that is in addition to the Federal Reserve. I agree with that. I think it is a good change, and I think most of my colleagues do, too.

In terms of being guided by your own personal experiences, I don't know about the rest of you, but one person who called in today on a call-in show said: Why don't we just let the marketplace make the decisions for us? We are smart. We get these credit card solicitations in the mail. There are a lot of choices. Let the marketplace work, and let people choose what card they want.

As it turns out, we have a lot of smart people in the Senate, maybe staff who are even smarter. There are a lot of people in this country who, frankly, have not had the opportunity for an education that some of us have had, and they lack, as do some of us, the financial literacy that will enable them to make the right decision on a multitude of options, choices; to understand them, read the fine print and understand how it will impact them.

As a result, we are not going to just let the marketplace work as it worked in the past because it didn't work perfectly. What we are trying to do is correct some of the bad behavior, clean up some of the behavior on the part of the credit card issuers, and that will get to a point where the marketplace can work, and the market will actually work on behalf of consumers. That is really what we want to see happen.

I will use a couple of examples from my own personal life. I have three credit cards that I use. One of the credit cards I use is for my personal use. Another credit card I use is for government-related expenses, official business. A third is for campaign-related expenses. The Presiding Officer may have a similar kind of arrangement. It helps keep everything straight for me. That is a benefit, a real advantage, and I believe it is an example of how our credit cards can be used for our advantage.

I had a credit card several years ago for campaign-related expenses. I lived in Wilmington, DE. The credit card bill had to be paid in New Jersey. I was getting the bill about 10 days before it was due, and in one instance I remember sending a check for that bill and it took 5 days for my check to actually get to the credit card company and be credited as a payment—5 days, Wilmington, DE, to New Jersey. I could have driven it in less than 5 hours, but it took 5 days to credit.

The other thing I noticed about the credit card company, the due dates for my bill were always Saturdays or Sundays. They didn't process on Saturdays or Sundays. I finally realized what was happening, and I said we will not use that credit card again. I tore it up, paid it off, and got another credit card that did not have that problem. That is an example of letting market forces work.

Hopefully, a lot of us are smart enough to be able to do that sort of thing, but honest to God, not everybody is as sophisticated as they need to be to be able to lay that out for themselves.

Another issue that has come before us is the issue of caps, our credit card limits. If Senator GRASSLEY over here has a credit card limit, and I am his credit card issuer, he has a limit on the credit card he has from us, from our company, say, a \$1,000 limit. Currently, if he exceeds the \$1,000 limit, we let him. My credit card company lets him exceed it and he starts paying fees. If he continuously goes over the limit, he pays more and more fees.

I don't think that is the way the system should work. The Presiding Officer doesn't think that is the way the system should work. The legislation before us says that is not the way this system should work.

Going forward, when a person signs up for a credit card, if there is a limit—we will say there is a \$1,000 limit—unless the cardholder objects, that will be a limit. It will be a hard cap. If the cardholders want to exceed that limit, they may do that, but they fully acknowledge that they will accept fees in doing so. I think that is a reasonable way to approach this.

There is another major issue that has been before us, the issue of whether the credit card companies should be able to assess risk and charge for that risk, the perceived higher risk on the part of the cardholder. We worked with Senator SHELBY, who is here today, to try to strike a reasonable balance that says, again, I am a credit card company, he is the credit card holder, and we send him his statement. He doesn't pay within 30 days. What the Federal Reserve said is after 30 days, credit card companies should have to charge a higher interest rate. We changed that a little bit, and we say we will give the cardholder 60 days. If the cardholder has not paid a minimum payment within that 60 days of it being due, the credit card company can raise the interest rate; however, we give the holder of the card 6 months on-time payments, minimum payments for 6 months, to earn back the lower interest rate. To me, that seems like a fair balance, looking out for the consumer, looking out for the company in addition.

I want to mention, yesterday we had the opportunity to debate the question of a usury ceiling. The question was 15 percent—shouldn't we have a 15-percent uniform usury ceiling on credit card rates. Maybe 33, 35 people voted

for it. I did not. I said to my colleagues wondering how they should vote, there are actually two or three problems with the amendment before us, or any usury ceiling rate.

If it is a 15-percent ceiling rate, the idea was we should limit banks to charging 15 percent because credit unions are limited to 15 percent. As it turns out, credit unions do not operate under the same rules of the road as banks. The banks complained the credit unions get a break and the banks do not enjoy that in a number of ways. To simply say because the credit unions are capping at 15 percent we ought to cap the banks at 15 percent, frankly, it is not a logical argument in my mind.

One thing I know is, if there were a limit of 15 percent, everybody here, all the Senators, would be able to get credit. Most of our staff would be able to get credit. The folks who would not be able to get credit are lower income people. They wouldn't be able to get a credit card because they may have a high risk, and if they do have a high risk and it is proven by their payments scheduled over time, those people are going to be cut off. That is not an intended consequence, it is an unintended consequence, but by virtue of not adopting yesterday's amendment we allow credit card companies to charge eventually for risk, but at the same time to offer the credit card holder the opportunity to earn back a lower rate of interest.

I compliment Senator DODD. I commend Senator SHELBY and their staffs. They have worked very hard to get us to a point where all of us, whether we happen to come from States where we have a lot of credit card companies or we happen to come from States where we have a lot of credit card holders, to try to get a right balance. I think you came really close to doing that. I understand we may have one amendment offered later today dealing with fees that are paid by, in some cases, the merchants—the interchange fees. I understand there is language in the underlying bill that says—this is not something on which we have had hearings, I understand, in the Banking Committee. I understand maybe other committees have had hearings on it years ago. We have not had hearings on this in the Banking Committee. It is a lot more complex than people would lead us to believe.

Why don't we give the appropriate agency, and I think in this case the GAO, the Government Accountability Office, a year to come back to us, study this, vet it, and tell us: This is what we think you should do. To me, this makes a lot more sense on the Senate floor, without having had the benefit of hearings, informed hearings from the Banking Committee, to tell us what we should do. Let's take our time and let's do this right.

I commend my colleagues. I thank them for giving my staff and me, other Members who have had an interest, whether on the committee or not, the

opportunity to weigh in, express our concerns, and have the opportunity to shape in a small way the outcome of this legislation.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 1107, AS MODIFIED

Mr. SHELBY. Madam President, I now ask unanimous consent the Collins amendment, No. 1107, be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment as modified, is as follows:

At the end of title V, add the following:

**SEC. 511. STORED VALUE.**

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

AMENDMENT NO. 1079, AS MODIFIED

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. I ask unanimous consent that the Landrieu-Snowe amendment No. 1079 be modified as it is presently at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title V, add the following:

**SEC. 503. EXTENDING TILA CREDIT CARD PROTECTIONS TO SMALL BUSINESSES.**

(a) DEFINITION OF CONSUMER.—Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended—

(1) by inserting “(1)” after “(h)”; and

(2) by adding at the end the following:

“(2) For purposes of any provision of this title relating to a credit card account under an open end credit plan, the term ‘consumer’ includes any business concern having 50 or fewer employees, whether or not the credit account is in the name of the business entity or an individual, or whether or not a subject credit transaction is for business or personal purposes.”

(b) AMENDMENT TO EXEMPTIONS.—

(1) IN GENERAL.—Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(A) in paragraph (1), by inserting after “agricultural purposes” the following: “(other than a credit transaction under an open end credit plan in which the consumer is a small business having 50 or fewer employees).”

(2) BUSINESS CREDIT CARD PROVISION.—Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by inserting after “does not apply” the following: “with respect to any provision of this title relating to a credit card account under an open end credit plan in which the consumer is a small business having 50 or fewer employees or”.

Ms. LANDRIEU. Madam President, I would like to speak for 3 or 4 minutes. I see my colleague from Iowa is here to speak, so I will not take any more time.

I spoke briefly about this amendment when I introduced it on behalf of Senator SNOWE and others who joined us, from both sides of the aisle. I have spoken at some length with the chairman and ranking member as well. I am hoping we could have a positive outcome on this amendment because it is so important to our small businesses in America.

We have been trying with some degree of success to actually help small businesses on Main Street in our communities. I say “with some success,” because we all go home on the weekends and we continue to hear very serious complaints from our grocery stores and our hardware stores and our shoe repair shops and our cleaners and our business owners saying: Senator when is any help coming our way? You are giving all of these billions of dollars to Wall Street and to these big banks. Yet we are here really struggling. Is anyone listening to us in Washington?

OLYMPIA SNOWE and I, as chair and ranking member of the Small Business Committee, are doing what we can, saying: Yes, we are listening, and we want to be of some help. Every bill that comes to the floor, we try to put a lens on it: How is this helping small business?

This bill is a good step to help consumers, individuals, persons, who have a credit card. Unfortunately, the way the bill is currently drafted, it leaves out small businesses.

My amendment with Senator SNOWE will simply put them in this bill so when this bill passes, we can have a real celebration about helping, not just individual cardholders but small businesses that are struggling to keep their doors open.

Madam President, you serve on the Small Business Committee. You have heard the testimony, immediate past testimony, of, really, businesses that have 500 employees that are struggling, to businesses that have 2 employees; from a conservative perspective, from a liberal perspective, that have come before our committee. That is how this amendment came to be.

As I reviewed the underlying bill and thought there were some terrific things in this bill that will help credit card users, let me just quickly say, it bans at any time, for any reason, increases in rates. No more can credit card companies just raise your rate any time for any reason. That is eliminated in this bill.

No longer can credit card companies charge you for a balance that you paid. If you owe \$1,000, you send them a check for \$900, they can still, under current law, charge you interest on the entire \$1,000.

That is not fair. It is not fair to individuals. It is not fair to small businesses. That will be corrected in this bill.

It simplifies disclosures. Yes, I believe in the free market, but I believe in order to have a free market you need to be able to read the print. Sometimes not only is the print small, but it is almost difficult to understand. So it is more simple disclosures.

I think small business owners need that opportunity as well. It prohibits credit card companies from charging interest on transaction fees that they add to monthly bills. So small business will get that benefit.

This is, in conclusion, not going to solve every challenge that small businesses have, but at least they will know there are Members of the Congress, Senators and House Members, who hear them, who are trying to do what we can to respond, and this amendment will actually cover 26 million small businesses in America, in addition to the millions of other credit cardholders, perhaps over 50 million, maybe more. This will include small businesses with less than 50 employees.

I would like to help every business in America. I will continue to work on that. But for this bill, because it was directed to individuals, we thought by keeping it to relatively small businesses, it would fit in the overall scope and framework of this bill.

Senator SNOWE and I are going to continue to work to expand credit opportunities for businesses with your help. This bill also is supported by Senator SHAHEEN, as an original cosponsor, and Senator CARDIN. I wish to thank them very much for their support and help.

I see my colleague from Iowa and will reserve the remainder of my remarks for Tuesday, when I hope we can vote on this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

#### GOVERNMENT-RUN HEALTH CARE

Mr. GRASSLEY. Madam President, for the benefit of my colleagues, I will only be speaking about 11 minutes or so. I will proceed.

Yesterday—no, it was not yesterday, 2 days ago—the Medicare trustees announced that Medicare's Part A hospital trust fund will be insolvent in 2017. That is 2 years sooner than last year's estimate. This announcement shines a spotlight on an issue Congress cannot ignore. Our largest Federal health program is on an unsustainable course.

Medicare, according to the trustees, is going broke. We have all heard the reasons over and over: People are living longer, health care costs are increasing, and most seniors are developing chronic and very costly conditions.

All this leaves the Federal Government with a \$35 trillion unfunded liability over the next 75 years because the trustees always look ahead 75 years. That is updated annually.

Some in Congress recognize the financial black hole that is looming before us. I hope my colleagues know I am working with Senator BAUCUS and

other members of the Finance Committee to reform the way the Government pays for health care.

Our options for delivery reform will bring the Medicare Program into the 21st century by improving quality and reducing costs. We desperately need to retake control of the costs of the Medicare Program, obviously, so it can be around for future generations. Yet in the face of that reality, some people think the best way to accomplish health care reform is to create another entitlement program.

In the face of Medicare's pending insolvency, some people want to create a new public program, a government-run health insurance program. I am one of the most vocal supporters of health care reform. We need to improve quality, access, and affordability. But we need to understand by adding another unsustainable government-run health insurance plan into our health care system, it cannot be the answer.

We cannot afford what we already have, so let's add more. Put that against the commonsense test. It does not make much sense. As the saying goes: History is a vast early warning system. Today, debate over health care reform is eerily similar to the debate in 1965, before Medicare was created.

Let's look at that history. Before the bill became law, doctors, hospitals, and other health care providers were concerned about this new government-run health care program that was passed back then. We call it Medicare.

Much like today, way back then, they were worried the Government would use this program to ration care and cut payments. To deal with these concerns, Congress and the President actually promised back then to doctors and others that they would continue to be paid, as the law says, the usual and customary rates.

That is why, to this very date, the Medicare legislation still states this:

Nothing in this title shall authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or compensation of any person providing health care services.

That was written in 1965. It is still in the law. But—and a big “but”—we all know that the cost and the political pressure has increased.

As a result, this section that I quoted, written in 1965, has become meaningless. Time and time again, Congress has intervened in medical decisions and cut reimbursement rates. Legislation in the late 1980s placed limits on what doctors could charge and put in place a government-mandated fee schedule.

One American Medical Association trustee recounted the AMA's original concern about Medicare by stating it this way: “Many of the things we feared have come to pass.” Surprise. Surprise. Despite the promise to pay “reasonable rates” when Medicare was created, today the Government pays between 60 and 70 percent of what private insurers pay.

By setting payment rates well below costs, it is becoming more and more difficult for seniors to find a doctor who accepts Medicare. Access issues for Medicaid, as we all know, are even worse. But some say we can avoid these problems by putting the government-run plan on a level playing field with private insurers.

They say Congress could set up a system so the government-run health insurance plan has to follow the same rules as private insurers. They say it would have to pay the same rates, form networks, be independently solvent, all sounding good. My question is this: When this new government-run health insurance plan starts to cost too much, then following the pattern since 1965 with Medicare, is Congress going to start breaking its promises? Will it change the rules?

A recent Wall Street Journal article tried to answer this question this way:

Any policy guardrails built this year can be dismantled once the basic public option architecture is in place . . . That is what has always—

And “always” is emphasized—

That is what has always happened with Government health programs.

Maybe at first Congress somehow repeals the requirement that the government-run plan has to form a network. Next, Congress might allow the Government plan to start paying lower rates than private insurers, just like we have done with Medicare and Medicaid. At that point, Congress might let the government-run plan dip into the Treasury from time to time to keep the Government plan solvent.

This, of course, would increase costs for everyone. As the Government takes more and more control over the plan, providers would get paid less and taxpayers would end up paying more. Rates for government-run health insurance plans would be lower than private insurers because Government can impose lower rates by law, also known—can you believe it—as price fixing.

This is a common talking point for supporters of the government-run plan. They say the Government can use its numbers to lower costs. But as the Government cuts payments to providers, costs will go up for everyone who is left in the private market. Slowly but surely the Government plan takes over the market. Eventually, all the promises about creating a level playing field have been broken, and we would be left with a single-payer, government-run health insurance plan, such as Canada.

Canada brags about having a single plan. But Canada does not have just a single plan. There is a second plan, and it is called the United States of America. So if you do not want to wait around 3 months for an MRI in Canada, you can come to the United States, if you have the money to do it and the time to do it, and get it right away.

But what happens if you have such a plan in America? Where do Americans go for what the plan does not provide

for our people when you have delay? Well, we will not go to Mexico, surely. Eventually, all the promises about creating a level playing field will have been broken, and we would be left with a single-payer, government-run health insurance plan.

The simple truth is, supporters of a government plan absolutely intend for this to be the outcome. Independent analysis by the Lewin Group agrees. According to Lewin's work, 119 million people would lose their private insurance. In other words, they would be crowded out. They would end up where? On the Government plan.

It also breaks one of the most important promises that President Obama made during his campaign, and I agree with this promise. What is it? If you like what you have now in the way of health insurance, you can keep it.

Independent analysis has shown that a government-run insurance plan will drive up prices in the private market and force employees and employers to drop that coverage. So the President does not get his plan or his promise during the campaign kept.

This, of course, will make our emergency rooms more crowded than they are today. It will limit access to high-quality care through rationing and price fixing. It will increase waiting time for lab results and lifesaving and life-enhancing procedures. It will add hundreds of billions of dollars of new Government spending.

This is not the kind of change the American people are looking for. Instead of creating a government-run plan and making a bunch of promises Congress cannot keep, let's create stronger rules and regulations for the private insurance market.

For instance, we should prohibit health plans from denying coverage to people with preexisting conditions and provide tax credits to people who cannot afford coverage.

Instead of introducing a government-run health insurance plan that would cost too much, limit choices, and lower quality, let's clean up the private market. Instead of introducing a government plan, let's help President Obama keep his promise that if you like what you have in the way of health insurance, you can keep it.

I yield the floor, and I suggest the absence of a quorum.

**THE PRESIDING OFFICER** (Mr. UDALL of New Mexico.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**MR. THUNE.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**THE PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

**MR. THUNE.** Mr. President, I ask unanimous consent to speak in morning business.

**THE PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

#### GUANTANAMO BAY

**MR. THUNE.** Mr. President, I have sought recognition to make a few observations on President Obama's request in the emergency war supplemental for \$80 million in funding to close the detention facility at Guantanamo Bay. Shortly after taking office in January, President Obama announced, with much fanfare, the closure of the Guantanamo Bay detention facility. At the same time, he also said he would work with Congress on any legislation that might be appropriate.

But instead of consulting Congress, President Obama is asking for \$80 million to close Guantanamo, with no justification or indication of a plan. The House Appropriations Committee has already refused to provide the funding because, in the words of the chairman of the committee, the President has no plan in place on what to do about the detainees housed there. We are now hearing reports that the Senate Appropriations Committee will be providing funding for Guantanamo and its version in the emergency war supplemental, but that it will be "fenced off" until the President provides a plan on disposition of the detainees held at Guantanamo Bay. I believe any plan to close Guantanamo that includes bringing these terrorists into the United States is a mistake. We don't want the killers who are held there to be brought into this country.

The administration is actively seeking to circumvent a Senate resolution which passed by a vote of 94 to 3 in July of 2007. That resolution stated the detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside into facilities in American communities and neighborhoods.

In fact, not only does the Obama administration wish to hold open the possibility that some of these detainees may be transferred to facilities in American communities, it is even considering freeing some of them into American society. These are the 17 Chinese Uighurs whose combat status review tribunal records were deemed insufficient to support the conclusion that they are enemy combatants but cannot be returned to China because of fear that the Chinese Government will torture or kill them. At a press conference on March 26, ADM Dennis Blair, the Director of National Intelligence, went so far as to say:

If we are to release them [the Uighurs] in the United States, we need some sort of assistance for them to start a new life.

However, the Uighur detainees are not simply unfortunate souls who happened to be scooped up on the battlefields of Afghanistan because they were in the wrong place at the wrong time. They took firearms training at camps run by the Eastern Turkistan Islamic Movement, which has been designated as a terrorist organization by the United States. They were at Tora Bora when we were heavily bombing that area and seeking to capture Osama bin

Laden. The leader and chief instructor at these camps was Abdul Haq. In a Treasury Department advisory issued only a few weeks ago, the Obama administration labeled this man a "brutal terrorist" with ties to al-Qaida.

It is hard to believe that this administration is seriously considering freeing these men inside the United States, and, most outrageous of all, paying them to live freely within American communities and neighborhoods. The American people don't want these men walking the streets of America's neighborhoods.

Aside from the issue of turning loose into the United States people who have trained in terrorist camps, the American people don't want the Guantanamo detainees to be transferred to the United States and held in their backyards, either, whether at a military base or in a Federal prison. That is easy to understand when one looks at the details of the killers who are held at Guantanamo.

Guantanamo is home to some of the world's most dangerous terrorists. There are 27 members of al-Qaida's leadership held there, along with 95 lower level al-Qaida operatives, 9 members of the Taliban's leadership, 92 foreign fighters, and 12 Taliban fighters. Americans don't want these killers brought into the United States, but President Obama's January 22 of 2009 Executive order reads, in relevant part, that a review of all Guantanamo detentions:

Shall identify and consider legal, logistical, and security issues relating to the potential transfer of individuals currently detained at Guantanamo to facilities within the United States.

In my view, President Obama is willfully ignoring the views of the Senate and its resolution passed, as I said earlier, by a bipartisan 94-to-3 votes. The detainees housed at Guantanamo should not be released into American society, nor should they be transferred to facilities in American communities and neighborhoods.

Since President Obama seems set on a course to bring these terrorists into the United States, I have worked with my colleague in the Senate, Senator INHOFE from Oklahoma, to introduce a bill that would prevent any taxpayer dollars from being used to transfer detainees held at Guantanamo to any facility in the United States or construct, improve, modify, or otherwise enhance any facility in the United States for the purpose of housing any Guantanamo detainees.

Transferring these terrorists held at Guantanamo to facilities in or near American communities could make those communities terrorist targets. I had the opportunity to question ADM Dennis Blair, the Director of National Intelligence, on the potential security threat of relocating the Guantanamo detainees to facilities in the United States during an Armed Services Committee hearing on current and future worldwide threats to the national security of the United States. Admiral

Blair acknowledged that moving those detainees to the United States “does somewhat raise the threat level” and “does raise the concern somewhat.” That does not give me comfort. If we must close Guantanamo Bay, it should not result in Americans being less safe.

Transferring these detainees would also stress the civilian governments in the communities where these detainees would be placed. These communities would be faced with overwhelming demand from roadblocks to identification checks, along with having increased security personnel necessary to deal with what is an obvious threat. The value of homes and businesses would decline. South Dakotans definitely don’t want these detainees, and my support of the Guantanamo Detention Facility Safe Closure Act will help to ensure that these detainees will not be transferred to my home State of South Dakota or other States in the United States.

In conclusion, my view is that no Guantanamo detainee should be brought into the United States to be incarcerated, and certainly should not be brought into the United States and freed. Americans don’t want these killers brought into their communities and neighborhoods, period. The Senate has clearly spoken on that front by a 94-to-3 vote on a resolution that we adopted in July of 2007 that detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside to facilities in American communities and neighborhoods.

These detainees are hardened, trained terrorists who are very smart and extremely dangerous, who understand the strategic vulnerabilities of this country, and who are capable of exploiting any situation and any vulnerability to inflict death and destruction on the United States. These are not common criminals locked up in State or Federal prisons.

Guantanamo is secure. The facility is a \$200 million, state-of-the-art prison. No one has ever escaped, and its location makes it extremely difficult to attack. Best of all, it is located hundreds of miles away from American communities. If President Obama wishes to close Guantanamo, he must do so in a way that keeps America safe.

In my view, America will be less safe if the Guantanamo detainees are brought into the United States. I will do everything I can to make certain that does not happen.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I thank my friend from Arkansas, Senator LINCOLN, for her leadership on the credit

card legislation and for her work on this bill. I also thank Chairman DODD for his work on the Credit Card Act. We have worked so many months on this vital legislation, and we are finally debating it on the floor. It is long overdue. For too long, credit card companies simply were not content in reporting record profit after record profit. They were not content making reasonable money at reasonable rates. They wanted more, and they wanted interest that was far above their cost for funds. They wanted fees and more fees and more fees. Up against your credit card limit? No problem. Instead of really being a limit, that ceiling served as a license to charge additional fees. For too long, the credit card companies convinced Washington to look the other way. No more.

While not all lenders that provide credit cards are engaging in the exorbitant and unethical practices, a great number are, and that is why this bill is crucial. It protects not only the consumer, but it protects the credit card companies from themselves. Nickel-and-diming doesn’t begin to describe the billions of dollars out of which Americans have been cheated.

The bill would protect consumers from random, at-will interest rate increases and account changes. It would banish unfair application of card payments, and it protects consumers who pay on time and follow the rules. It would curtail fees and penalties and ensure that cardholders are informed of the terms of their accounts. This bill would help protect young people from credit card predators. We all know, if we have ever had teenagers in the last 15 years or so, that a huge number of solicitations keep coming at them. This legislation puts the well-being of millions of hard-working middle-class families first.

I have heard some outrageous complaints from big, multinational banks that claim this bill is unfair because to make the changes it requires would take years to implement.

It is a pretty weak argument for the big, sophisticated, multibillion dollar credit card companies, with armies of information technology employees and lawyers. It certainly doesn’t take them a year to increase a fee or to figure out how to implement a universal default policy or to work the mathematical magic needed to implement retroactive pricing.

For too long, the big credit card companies didn’t step up and do the right thing, so there should be no surprise that they must do so now. Millions of Americans—their customers—were left in the dark at the mercy of whatever sleight of hand or shell game credit card companies could contemplate. If there were a charge or policy imposed that consumers didn’t agree with or understand, they were forced to dial a 1-800 number on the bill. If they were lucky, they could talk to an actual person who worked from a crib sheet on different ways to say no. If they took it

further, they could run into an army of lawyers.

No more. Consumers in my State of Ohio, and across this country, are no longer alone. The Government is going to work for them. It is time our laws were on the side of hard-working men and women. That is why we are working on this comprehensive legislation protecting consumers from multibillion dollar predators.

Young people, who often are a prime target of these predators, will have heightened protections with this bill. I have spoken many times about the questionable practices of credit card companies which inundate our college campuses with their enticements and their advertisements. With the escalating price of a college education, and our Nation’s financial problems, why would credit card companies dole out credit to unemployed or underemployed students? Because they can, and because no one has been willing to stand up to them, and no one—as this bill does—has been willing to stand up for those students. Now the Government is stepping in and will fairly regulate what was too often the wild west of consumer lending.

College students should have access to credit cards. They should have the ability to take out consumer loans. This is an important way to develop good credit practices and good credit for those students. But universities such as Ohio State—the Nation’s largest university—tell their students to avoid taking on large amounts of credit card debt. Even so, many credit card companies flood campuses with deceptive advertising and hidden fees and penalties and unscrupulous practices. No more.

This bill shouldn’t even be necessary. Credit card companies should be responsible corporate citizens. Sadly, many have not been willing to play fairly. Last November signaled a shift from large corporate shareholders running this country to middle-class families taking back the reins of government. This bill is one of the results of that change, with a new President and a different Congress actually putting the Government on the side of the middle class.

I am a cosponsor of the CARD Act, and because of that, I look forward to its passage.

I yield the floor, and I thank the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the Collins amendment.

AMENDMENT NO. 1126 TO AMENDMENT NO. 1107

Mrs. LINCOLN. Mr. President, I call up a second-degree amendment to the pending Collins amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 1126 to amendment No. 1107.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that further reading of my amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Federal Deposit Insurance Act with respect to the extension of certain limitations)

At the end of the amendment, add the following:

**SEC. 504. EXTENSION OF LIMITATIONS.**

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking “equal to not more than the greater of—” and inserting the following: “equal to—

“(A) not more than the greater of—”; and

(4) by adding at the end the following:

“(B) the State’s maximum lawful annual percentage rate or 17 percent, to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

“(i) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

“(ii) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans’ mortgage bonds as set forth in section 143 of such Code;

“(iii) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

“(I) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

“(II) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

“(III) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

“(iv) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).”.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Mrs. LINCOLN. Mr. President, I begin by commending Chairman DODD and the ranking member, Senator SHELBY, for putting together such an important package of reforms to protect our consumers all across this great Nation. Without a doubt, rampant credit card debt is a problem facing a great and growing number of Americans. In my own home, my twin 12-year-old boys get preapproved credit card requests weekly—at the age of 12.

Looking at how we can do a better job of both financial literacy and helping people during this time of credit crisis to be able to do a better job in terms of responsibility, the Federal Re-

serve’s most recent data estimates that the average American household now has about \$2,200 in credit card debt compared to an average of about \$1,000 in 1992, and overall household debt has risen drastically, more than doubling in this last decade.

Confusing terms, constantly changing interest rates, and high penalty fees have all contributed to this trend, as many people struggle to effectively manage their credit and their credit card use and the debt they have.

While it is the responsibility, obviously, of consumers and borrowers to manage their own financial affairs, it is also absolutely essential that we ensure they have all the information they need, in an easily understandable form, so that they are able to make fully informed decisions about their credit and the amount of debt they might be incurring and what it means to their families; what the long-term implications might be. It is also important that credit card companies provide stable, easy to predict interest rates, and reasonable penalty fees that do not overly punish innocent mistakes that might be made.

This bill, on which Chairman DODD and Ranking Member SHELBY have worked so tirelessly, has come together in a bipartisan way to improve consumer protections regarding excessive fees, ever changing interest rates, and complex contracts seemingly designed to do one thing above all, and that is to keep people in debt. This bill will clean up the fine print so consumers don’t get blemished by their credit card companies.

I am very pleased to be supporting the underlying bill, because ultimately I believe it will help restore fairness and common sense in our Nation’s credit card practices.

On that note, talking about fairness and common sense, I wish to discuss the second-degree amendment to Senator COLLINS’ amendment I have called up. This is an amendment I am offering on behalf of the entire Arkansas delegation—the entire delegation as well as our State officials, and others. This is a critical legislative proposal that will provide temporary emergency relief for an Arkansas-specific interest rate problem that is having a severe impact on Arkansas students, our consumers, our businesses, as well as our municipalities and our State government. We are all, in Arkansas, affected by this situation.

Arkansas is the only State in the Nation with an artificially low interest rate limit that is tied to the Federal discount rate. Under current law, the interest rate on special revenue bonds and nonbank consumer loans may not exceed 5 percent above the Federal discount rate, which is currently set at one-half percent. So we are completely uncompetitive. Other bonds are capped even lower, at 2 percent above the Federal discount rate. As a result of this, Arkansas State and local governments, our public universities and utilities—in

search of financing for construction and improvement projects—are severely hampered by the current limit, as are our Arkansas consumers, who are facing a lack of credit availability, as is everyone in this great country during this economic crisis.

Practically speaking, the current interest rate limit—the top rate that is legally allowable in Arkansas on all nonbank lending—is no higher than 5½ percent. Not surprisingly, this low rate of interest has contributed to bond investors looking to other States across the country where their yields will be much higher, as well as credit rationing by nonbank lenders that have been forced to restrict funds to consumers—particularly now, when capital is so hard to come by anywhere else.

The biggest frustration of all for people in my State is that the Federal Government has continued to make this problem worse and worse by lowering the Federal rate. This was done in an effort to improve the economy, and we certainly understand that in Arkansas. The Fed took those measures in order to try to improve the economy overall. But since we are the only State that has that unusually low rate that is tied to the Fed, we are actually suffering tremendously from what is occurring. As I said, we do appreciate the Federal Reserve’s actions in these recent months to continue lowering the Federal discount rate where necessary to combat the economic crisis and stave off a further decline in our financial markets, but the lowering of that rate has only exacerbated the economic challenges faced in our State, and in our State alone, for that reason.

Additionally, many of the tools put into place in the American Recovery and Reinvestment Act—the stimulus package that we offered earlier this year to jump-start our economy, such as the Recovery Zone bonds and the Build America bonds—are not available in our State because of our lack of competitiveness in the bond market, due to those abnormally low interest rates that are tied to the Fed. As stated in the recent Arkansas Democrat-Gazette article on this issue:

The bond market has responded to the Build America program. Since its introduction, investors have purchased \$8 billion in offerings, providing the bulk of activity in the taxable-bond sector. Arkansas is not in a position to take part.

This is an issue that impacts our State of Arkansas alone. We understand that, and Arkansas does intend to fix that problem. However, we can’t do so immediately because this archaic clause in the Arkansas law must be rectified through a statewide ballot initiative. Therefore, a proposal to permanently modify this outdated law will be voted on by the people of Arkansas, but not until the next statewide ballot in 2010. Unfortunately, the economic challenges our Nation now faces are magnified in our State and immediate emergency intervention is

essential; otherwise, our State's recovery will lag behind due to a lack of capital in our State.

There is precedent for Federal action on this issue, as the Congress enacted an Arkansas-specific provision to exclude Arkansas bank lenders from this exact interest rate limit in 1999. The second-degree amendment we are offering today is even more limited in scope, allowing for a temporary relaxation of the current interest rate limit to a more reasonable level of no more than 17 percent until the State ballot initiative is considered.

This is temporary, it is an emergency for Arkansas, and it is only in regard to the State of Arkansas. This is merely a temporary bridge to get us through this immediate crisis. We are all part of this economic crisis in this great country, and we are working hard together to pull ourselves out of this ditch and to get the economy back on track. I would hate to think that my State, and my State alone, was the only one that could not access the stimulus dollars to help our universities, our airport authorities, our municipalities, and others to access some of those dollars, to help create jobs in our State, and to put people who may have lost jobs back to work. We want to be sure we have the resources as well in order to be a healthy part of reviving the economy in this great country.

This is a matter of great urgency for our State. This is a matter with broad consensus in our State. We have worked as an entire delegation and in a bipartisan way. We have the State government, our Governor, and others who have been working with us—just for Arkansas, because it is Arkansas specific—to figure out a way to provide that temporary bridge, that temporary assistance we need. Because if we wait until that ballot initiative, the stimulus package will be over and we will have missed that opportunity. So this is a matter we have been working on, as I said, in a bipartisan way to try to solve.

We hope we can count on the support of our colleagues when this amendment comes up later on today or whenever we vote on it. But I do plead with my colleagues, this is an Arkansas-specific issue. It is one that is detrimental to our State. We have an opportunity to help the people of Arkansas, the communities of Arkansas, the student loan authority, which can no longer issue new student loans because of that bonding authority and the cap that exists there. The problems that exist for us are monumental, and we want to ensure that over the next 18 months we too can be a part of reviving the economy of this great country.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I ask unanimous consent to have Senator PRYOR added as a cosponsor to my second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, since there is some time, I ask unanimous consent that I be acknowledged as in morning business for whatever time I shall consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GUANTANAMO BAY

Mr. INHOFE. Mr. President, there are several things toward the end of the week that I was wanting to elaborate a little bit on. They are kind of unrelated subjects, but we do not get this opportunity very often.

The whole idea of Guantanamo Bay is something that I know a lot of people have talked about. I was very proud at the inauguration when our new President, President Obama, gave a lot of statements that were, I thought, logical, and, frankly, a speech that I could very well have made—not as eloquently as he but from a content perspective.

He said, in relationship to the problem of Gitmo, or Guantanamo Bay, that, yes, we want to close that. However, we first must figure out what we are going to do with the detainees, recognizing that there are 245 detainees, recognizing further that there will be more as there is an escalation in activity in Afghanistan and that there is no place else to put these people.

I felt pretty satisfied at that time that this great American resource we have called Guantanamo Bay is something we need to keep. It is one of the few good deals the Government has. We have had it since 1903. It is a resource unlike anything else, not only in our holdings but anyplace in the world. It is a place where we have actually built a courtroom that will handle tribunals, that will handle cases with rules of evidence that would fit tribunals as opposed to our court system. I felt pretty comfortable knowing there is nothing that can be done with the 245 detainees. Many are very dangerous terrorists.

Since that time, he has changed his position. Now he is saying we will close it regardless. He has already closed the courtroom. This facility took 12 months to build. It cost \$12 million.

There is nothing else quite like it. If we are going to ever adjudicate these individuals, bring them to trial, we have to put them someplace. One of the alternatives would be our court system. Obviously, that is not a good idea. Most thinking people realize it is not a good idea because, the rules of evidence being different from what they are in a normal criminal case, most likely we would not get convictions. What happens when you don't get convictions? You turn people loose. If there is anything we don't want, it is terrorists being turned loose. The politics of that is such that people who want to close Guantanamo Bay are backing away from that issue, but they are still talking about closing it.

I have had occasion to be down there several times. The last time I was there, I used a new technology that I didn't understand too well: YouTube. I did a program down there from Guantanamo. I commented at that time: Here we are with about six levels of security for six levels of detainees. There is no place else like it where we can do something like this.

In terms of how they are treated, I have had them say, with a translator, that it is probably the best food they have ever had in their lives. There is one medical practitioner—in most cases, a doctor—for each two detainees. Where else will you find that? There are procedures that are offered to the detainees that they would never have offered anywhere else. For instance, when they offered a colonoscopy, which was described to the detainees in terms of what it entailed, they decided they didn't want it. Nonetheless, these were things that were offered in the way of health care.

In the case of torture, there has never been a documented case of waterboarding or any severe torture taking place there. I can remember the week after 9/11, when we had immediately a few people in there. I went down and found that our own troops who were stationed down there were not treated as well as the detainees.

Even if that were not true, there is no other place that we can put them. There has been a proposal that there are some 17 detention installations in the United States that would be suitable for these people. One of them happens to be Fort Sill, which happens to be in Oklahoma. I went to Fort Sill and talked to a young lady there who is a sergeant major. This is in Lawton, OK. I talked to her about this. She said: Senator, I have to ask you a question. Why is it that everyone is so concerned about closing Guantanamo Bay? This facility here is not nearly as suitable for detainees.

Then she went on to explain why this separation of people and of classes of security problems. She said: Besides that, I spent 2 years—this is Sergeant Major Carter, stationed at Fort Sill—at Guantanamo Bay. That facility is better than any Federal facility we have.

Why is it we are so bent, just because of some ugly rumors that are not true about treatment of detainees, on closing a resource we have had and we are still paying \$4,000 a year for, as we have been ever since 1903? You don't get many bargains like that in government. Anyway, they seem to be concerned about doing that.

I believe public pressure is going to come around on our side and common sense will prevail and we will not close that resource. We will need it in the future. We need it today. We have needed it in the past. It has served us well.

As this moves along, I hope the public knows there are several of us who are going to make sure we do not do anything that is going to allow some of these detainees to be floating around in the continental United States. If we are inclined to do this program where we put them in some 17 installations, we will have 17 magnets for terrorism in the United States. That is not going to happen.

#### THE FIRST ONE HUNDRED DAYS

I also wish to talk about the striking similarities between what is happening today and what happened back in 1993.

The first 100 days of President Obama's administration will be remembered for its unprecedented level of new Federal spending—no question about that; no Democrat or Republican can deny that—and the return to big government. This, together with his advocacy of far-left, liberal causes—everything from abortion rights, to gun control, to universal health care—will put him on a track to repeat the performance of 1993, when a very attractive, young Bill Clinton entered the Oval Office under the banner of change. After Americans realized that his so-called change was simply an extremely leftwing position, the American people revolted and put Republicans back in charge of Congress. If President Obama continues down this path, I would not be surprised to see that happen again in 2010.

Nothing is more indicative of the stark contrast between conservatives and liberals than the massive Government spending spree now underway in Washington. In his first year in office, Bill Clinton put forward what was then the largest budget to date in our history. It was \$1.5 trillion. It included domestic spending of some \$123 billion.

Now in this 100th day of President Obama's administration, the Senate is poised to vote on what would become the largest budget to date. This budget, which highlights his priorities, is the most radical and partisan budget we have ever seen. It includes \$4.4 trillion in additional deficits and \$3.5 trillion in total spending. Let's compare that to 1993. I was down on the floor complaining about a \$1.5 trillion budget. This is a \$3.5 trillion budget.

When I go back to Oklahoma, sometimes I come to the conclusion that there aren't any normal people in Washington, because they ask the question: Senator, how can we afford

all this spending when we had a stimulus bill of \$789 billion, increasing debt by \$1.8 trillion in the first year, and a \$3.5 trillion budget? Where is the money going to come from?

Here I am, the senior Senator from Oklahoma, and I can't answer the question. We do have choices. We can borrow. We can print it. It will have to be a combination of the above. We know all of the very damaging effects: \$1 trillion in taxes on individuals and businesses, a \$634 billion downpayment for government-run health insurance. There is another similarity. Remember, in 1993 it was called Hillary health care. The concept was the Government can run a health care system better than people can. I always invite people who believe that to go spend some time in some of the hospitals up north; the Mayo Clinic and some others come to mind. See the number of people who are there who came over from Canada because they couldn't get treatment. Maybe their age was right above the federal guideline for a particular type of procedure, and they could no longer do it. Again, the similarities are so similar, 1993 and what is happening today. Then, of course, we had the Wall Street bailout and all of that.

I am very concerned about the direction this administration has proposed to take us. Anyone who works hard, plays by the rules, pays taxes, drives a car, turns on the lights, saves, invests, donates to charity, or plans to be successful should also be concerned.

Defense cuts—I probably am more concerned about this than most Members. I am the second ranking member of the Armed Services Committee. I have watched what is going on. To me, it is deplorable.

I happened to be in Afghanistan when Secretary Gates came out with Obama's defense cuts. They tried to claim they are not defense cuts. They are. It is just that they are talking about the DOD appropriations bill versus all the other funding sources that have been used before.

The best evidence that they are cuts is what has happened to our platforms. Right now, the F-22 is the only platform we have that is fifth-generation maturity. This is something he is stopping right now. We were originally supposed to have 750 F-22s. Now we will stop at 187. At the same time, you have China with its J-12, Russia with its SU series, a fifth-generation airplane. That is going to put us in a position where it will hurt and hurt bad.

The same thing is true with the Future Combat Systems. We have been working on that for 8 years now since Shinseki helped to start it. It is the first transition in ground capability in at least 50 years. This is something we have been working on so that we don't send our kids into battle against countries that might have a better artillery piece and better equipment than we. He axed that program.

How long has it been since we started working with the Parliament of Poland

and the Czech Republic to get them to let us put a radar system in the Czech Republic and interceptor capability in Poland so that when Iran gets the capability of sending a nuclear missile over to western Europe or the eastern United States, we would have the ability to shoot it down? It didn't happen. The Parliaments that had to be politically pretty strong to agree to do that. Now they are sitting back and finding out that they are talking about axing that program too.

The airborne laser is the closest thing we have to knocking down a missile in the boost phase. We were coming along with that program. They axed that program too.

I am very concerned about what happens and what has happened in this budget to our capability of defending ourselves. Then I go back to 1993. That is exactly what happened back then. If we look at the 8 years of the Clinton administration, we cut military spending from what would be just a straight line by \$412 billion in that period. Of course, we ended up cutting our military by about 40 percent over that period.

The bottom line is, all these programs were cut. I happened to be in Afghanistan when that happened. We did a report from over there. We could see the Bradleys driving by and the helicopters taking off, the bad weather, soldiers coming back from patrols and turning on the tube and finding out President Obama is going to gut the military. It is totally unacceptable. But that is the same thing that happened in 1993. It is déjà vu all over again.

Gun control is the same. We see now that they are going to try to get us to sign on to a treaty that is called CIFTA, a treaty in the Western Hemisphere where we will all get together and we will allow Central America and Mexico and South America and Canada to determine what gun manufacturers can do. It is the first major step to gun control, in violation of second amendment rights. People care about that. It is exactly what happened with Bill Clinton in 1993.

Energy taxes—back when Bill Clinton was doing it, it was called the Btu tax. That stands for British thermal unit. It was a massive tax increase on energy and very similar to what they are trying to do right now—which, incidentally, I have no doubt we will stop them from being able to do—the cap-and-trade tax. One thing about the cap-and-trade tax, that is something that is not just a one-shot deal like the stimulus bill. That is every year. It would be somewhere around \$350 billion a year in taxes on the American people, a regressive tax because it is a tax on energy. People with lower incomes spend a larger percentage of their expendable income on that kind of energy than rich people do.

We are not going to let that happen. I tell all my friends, we have been fighting that battle now for 8 years,

and it is over. We are not going to let that happen in America. But that is what Bill Clinton tried to do in 1993. It is the same thing all over again.

We went through the same thing on abortion. I think personally there is no mission more important than standing up for the sanctity of human life. Here again, President Obama, like President Clinton, quickly moved to appease pro-abortion advocates.

Just a few days ago, the Senate confirmed Kathleen Sebelius for Secretary of Health and Human Services. As Governor of Kansas since 2002, she has a clear record of supporting abortion and policies that I believe impact the health and safety of women and parental rights. Again, it is abortion. Either you are for it or against it. But this is one of the strong pro-abortion positions in 1993 that now we are getting again out of this administration.

So when you look at this, I cannot help but think that all the signs are there, that we are seeing the same thing now that we saw back in 1993. I believe we are going to be positioned to keep a lot of these things from happening, No. 1, and No. 2, let's remember what happened in 1993. Young, attractive Bill Clinton went in as President of the United States, and he had the House and he had the Senate, and he had it all just as President Obama has it all. He has the House and the Senate. Therefore, it is not someone else's fault for all these programs. Consequently, we had a major turnover in the 1994 election. Republicans took over the House and the Senate. So I just warn my liberal friends from the other side of the aisle, be real careful. Watch what you are doing because it could very well happen again.

#### EPA'S ENDANGERMENT FINDING

Mr. President, I do have something that is a little heavier lifting subject. I am the ranking member of the Environment and Public Works Committee. When the Republicans were in the majority, I was chairman of it.

Something is happening right now, and something happened Tuesday morning. I want to make sure everybody understands, as this week is coming to an end, that on April 17, the administration set in motion a ticking timebomb with its release of a proposed endangerment finding for carbon dioxide and five other greenhouse gases. This proposal finds—this, incidentally, is what all the scientists do not agree with—this proposal finds that carbon dioxide is a dangerous pollutant that threatens the public health and welfare and therefore must be regulated under the Clean Air Act.

This is interesting because they first tried to pass cap and trade. They know there are not the votes for it. There are in the House. Speaker PELOSI pretty much gets anything she wants through. It is a simple majority vote over there. Over here, it would take 60 votes to pass that massive tax increase, and we are not going to do it because they do not have more than 34, maybe 35 votes,

and it takes 60 votes. But, nonetheless, since they cannot do it, they decided to do it under the Clean Air Act and do it through regulation so it could be done from the White House. This so-called endangerment finding sets the clock ticking on a vast array of regulations and taxes, with little or no political debate or congressional control.

On May 12, we learned of a White House document. This is significant. We did not know it was there. I want to credit our committee, the Environment and Public Works Committee—the minority side—for finding this document. It is a White House document marked “privileged and confidential.” It was buried deep within the docket of the proposed rule. It outlines some of the very same concerns shared by me and many of my colleagues, including Senator BARRASSO. I could not be here for that Tuesday morning meeting, and he was good enough to take this memo and expose it and did an excellent job of it.

Keep in mind, we are talking about their proposal for new taxes, new regulations—all these things they want to go through with because they cannot legislatively pass a cap-and-trade—or cap-and-tax, as some call it—proposal.

The document we found—allegedly a compilation of concerns from unnamed officials within the White House, or the administration, as part of an inter-agency review of the proposed regulation—raises some questions, very serious criticisms of the endangerment proposal. Chief among them are questions raised about the link between the EPA's scientific argument for endangerment and its political summary.

I am going to quote from it. I have three quotes. Keep in mind, this came from the administration. This report says:

The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about basic facts surrounding greenhouse gases seems to stretch the precautionary principle to providing for regulation in the face of unprecedented uncertainty.

In other words, what they are saying there is that the science is not there; we do not know yet; we know there are a lot of problems with this, and we should not be rushing into it. This came from the White House. I am glad we found it.

Here is a further quote. Additionally, it says:

There is a concern that EPA is making a finding based on “harm” from substances that have no demonstrated direct health effects, such as respiratory or toxic effects, and that available scientific data that purports to conclusively establish the nature and the extent of the adverse public health and welfare effects are almost exclusively from non-EPA sources.

Again, this is not me talking, this is a quote from the White House in a buried document we fortunately—but surprisingly—did find.

You can ask: What source is the EPA relying on if it is going to go through

all this? That source is the U.N.'s Intergovernmental Panel on Climate Change. This is where it all started. It was the United Nations that started this whole issue of greenhouse gases, of CO<sub>2</sub>, anthropogenic gases, and methane causing global warming. When you look at their “Fourth Assessment Report”, which, as I have documented before many times in speeches on this Senate floor, is a political and not a science-based body, it has no accountability here in the United States.

You keep hearing people say: What about the NAS, the National Academy of Sciences? What about them? They are scientists.

The reports they give are not from the NAS, they are from the political review or the summary for policymakers, which is a political document, not another document.

In addition, this White House memo also warns of a cascade of unintended regulatory consequences if the endangerment finding is finalized. It states—and again, I am quoting from this report:

Making the decision to regulate CO<sub>2</sub> under the Clean Air Act—

That is what they want to do, regulate CO<sub>2</sub> under the Clean Air Act—

for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small business and small communities.

This report talks about the small businesses, the small communities, churches, other groups that are going to be adversely affected by this. Again, this is a document that came out of the White House.

Now, for one thing, I am glad to know we are not alone with our concerns and that several in the Obama administration share views similar to ours on the endangerment finding. I am hopeful more will come forward.

So what was the administration's official response to the release of this memo? Well, it depended on whom you asked. One source in the Obama administration chose to again blame it on the Bush administration, stating it was written by a holdover appointed by George W. Bush. However, earlier in the day, Peter Orszag, who heads the White House budget office, where the memo apparently came from, stated that the quotations circulating in the press are from a document in which the OMB simply “collocated and collected disparate comments from various agencies during the interagency review process of the proposed finding. These collected comments were not necessarily internally consistent, since they came from multiple sources, and they do not necessarily represent the views of either OMB or the Administration.” Well, it is fine to say this, but that is where it came from. It came from the administration. It is very fortunate we found it.

It begs the question: Does this document reflect one rogue leftover Bush appointee, who, based on followup news

reports, actually appears to be a Democrat or does it reflect a more systematic summary of comments from various agencies that have serious concerns with the proposed finding, as Orszag suggested? I am hoping someone from the administration will come forth with a consistent response.

In either case, I welcome the comments as an open and honest discussion of the potential costs, benefits, and legal justifications for such a finding.

Regardless of the Supreme Court decision, the EPA has the discretion to carefully weight the science and the causes and effects in its determination of endangerment, and, despite recent claims by administration officials, it is under no court order to find in the affirmative that such greenhouse gases endanger public health or welfare or cause or contribute to air pollution.

If we are going to have a debate on this issue, let's have it here in Congress, where the American people deserve an open and honest discussion about the costs and alleged benefits, about the effectiveness of such policies and what it will mean to the consumers who ultimately pay the bill. As I said before, it is going to be the poorer Americans who pay the larger percentage of their incomes who are going to be punished.

By the way, we had the debate here. In the House, they have never had the debate because it has never come up as an issue. Here we had the debate during the ratification debate on the Kyoto treaty. And we had the McCain-Lieberman bill, the Warner-Lieberman bill, the Boxer—there is another bill that came up just in the last year. So we have had the debate, a full and open debate, and we are going to have to debate this issue because there is an effort to try to do through regulation what they cannot do through open debate in the process on the floor.

The administration, and this EPA in particular, has claimed they will usher in a new era of transparency. In April, Administrator Jackson issued a sweeping memo to all EPA employees committing the agency to an unprecedented level of transparency. I applaud her for it. She told me this in my office. We also found that she made this statement in a private memo to Members. So she is being very honest in what her effort is. I have a feeling a lot of this stuff is happening, and she is not even aware of it.

She says—and this is a quote; this is beautiful:

The success of our environmental efforts depends on earning and maintaining the trust of the public we serve. The American people will not trust us to protect their health or their environment if they do not trust us to be transparent and inclusive in our decision-making. To earn this trust, we must conduct business with the public openly and fairly.

Again, this is Lisa Jackson, the new Administrator of the EPA. I applaud her for saying this.

This requires not only that EPA remain open and accessible to those representing all

points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions.

She went on to say at her confirmation hearing—not only did she reaffirm this statement, but she said she would be responsive to us on the minority side, the same as she would be to the majority, and I believe that.

Certainly, the allegations in this White House memo make one question whether the EPA is open and accessible to all points of view. For one thing, it was marked “privileged and confidential,” which tells me that perhaps they knew about it, but then they did not want to use it and they did not want people to find out about it. Nonetheless, the document speaks for itself.

My colleagues may criticize the Bush administration for how it handled the endangerment finding, but at least they did not try to bury or hide these types of comments when it proposed its advance notice of proposed rulemaking last summer. I know a lot of this sounds a little confusing. This is a process you go through, an advance notice of proposed rulemaking. In fact, the previous administration; that is, the Bush administration, went so far as to lay all of these comments out in public view so all sides could be represented. If this latest action is any indication of how the EPA has begun to operate, then the American public should have serious reason to be concerned.

On this CO<sub>2</sub> endangerment issue—potentially the largest and most sweeping regulatory effort ever to be proposed—transparency should be a cornerstone of every agency action. Opinions from all sides, pro and con—and certainly from all other agencies—should be weighed equally and fairly and, just as important, openly, in full view of the American people. The American people deserve to know all sides, all costs, and all benefits. This thing is so costly, and with the questionable benefits, this is that much more important.

Because of these issues, I am hopeful the Administrator will commit to a determination on endangerment that would be based on the record of the scientific data and empirical evidence rather than political or other nonscientific considerations. It is of the utmost importance that regulatory matters of this scope and magnitude be based on the most objective, balanced scientific and empirical data.

While I am still hopeful that ultimately Congress or the agency will decide to take this option off the table, a full on-the-record examination during any endangerment rulemaking should be a minimum requirement of transparency.

But the administration has essentially politicized the issue by presenting policymakers with a false choice. The choice is to use an outdated, ill-equipped, and economically disastrous option under the Clean Air

Act or pick another bad option—cap and trade—that commits us to requirements for unaffordable technology and would certainly be the largest consistent annual tax increase in the history of America. This isn't going to happen.

I would repeat we are fortunate in that we have had this debate, and each time we have the debate, there are more and more people who come down and say: Well, I didn't know it was going to cost that much money. Back in the original Kyoto days, it appeared that a majority of the people, in fact, in the Senate would support that type of an approach.

By the way, I have to say this: The Kyoto treaty was one thing. That is a treaty that affects the whole world, a lot of developed nations and some undeveloped nations. It was something you signed onto and everyone signs onto and everyone agrees to. Since that didn't happen—and even if you are one of those individuals who believes that anthropogenic gases, CO<sub>2</sub>, and methane are causing global warming—if you believe it, which isn't true, but if you did believe it—then does it make sense for us to pass something unilaterally in the Senate, making us less competitive than the rest of the world? What is going to happen to our manufacturing base? What is left of it is going to end up in places such as China, India, and Mexico, where they don't have these emission requirements. What is going to happen then? There will be a net increase in CO<sub>2</sub>.

Back to the memo, and I will conclude with this. I have to repeat what the memo says. This was a memo that was advice to the process from the White House.

The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about basic facts surrounding greenhouse gases would seem to stretch the precautionary principle to providing for regulation in the face of unprecedented uncertainty.

In other words, it is uncertain.

Further, it states:

There is a concern that EPA is making a finding based on harm from substances that have no demonstrated direct health effects such as respiratory or toxic effects, and that available scientific data that purports to conclusively establish the nature and extent of the adverse public health and welfare effects are almost exclusively from non-EPA sources.

That is an admission.

Finally:

Making the decision—

Which I hope we will not make the decision to do, but we will oppose that decision—

to regulate CO<sub>2</sub> under the Clean Air Act for the first time is likely to have serious economic consequences for regulated entities throughout the United States economy, including small businesses and small communities.

In other words, nobody wins. Nobody wins.

So with that, I would say there is this effort that what they cannot do

legislatively they want to do through regulations, and we are not going to allow that to happen.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Oklahoma for yielding. There are two issues I wish to address. The first will be this bill, in particular, the gift card title in the Credit Card Act. Secondly, I wish to speak a little bit about the NTSB hearings on flight 3407 which, as my colleagues know, crashed outside Buffalo and Clarence with a tragic result.

First, before I get into the substance on gift cards, I wish to commend Senator DODD, Senator SHELBY, and all the members of the Banking Committee for doing an excellent job on this bill. The bottom line is we need good, strong, tough regulation on credit cards. The days when disclosure was enough are over. I happened to believe that once and worked hard for disclosure measures. There is something called the "Schumer box" that is on all credit card solicitations applications because it puts in large letters the interest rates. Back in the old days, that worked. Every credit card, even though interest rates were 6, 7, 8 percent, was at 19.8 percent, but you couldn't find that out. So when people signed up for a credit card, they had no idea what interest rate they were paying. Once the box got on the solicitations, on the applications, interest rates came down. Good old-fashioned American competition began to work.

But in recent years—maybe they just got smarter or maybe they got more desperate for profits—credit card companies have found a way around disclosure. A person believes they are signing up for one rate, but then in the fine print, basically, if you wake up out of bed, the rate goes higher—much higher. We have gotten letters and heard stories from people who were on a 7-percent fixed rate and it went up to 23 percent overnight.

If it is on a future balance, that is fine. You can get another credit card. But it isn't. These rates go up on existing balances. Let's say you have a \$4,000 balance, which is the average for American families with credit cards. Calculate it. You go from 7 percent a month on \$4,000 to 23 percent on \$4,000, and that is a difference of hundreds of dollars a month. These days, with the economy the way it is, with families struggling to make ends meet, a couple hundred dollars a month is the difference between being able to survive and perhaps going bankrupt; being able to survive and not being able to provide some of the basic necessities.

The legislation before us stops all those practices. The frustration, I must say, on both sides of the aisle, with the practices of the credit card industry is mounting. I would say to those in the credit card industry: Unless you get your act together, there may be other amendments and bills you will not find

to your liking. It is about time to be responsible. I understand the banking industry is in tough times, and we all hope they will recover, but to recover by taking advantage of consumers is unfair, unwise, wrong, and we aim to stop it with this legislation.

The provision I wish to address specifically is one that I worked on with the Presiding Officer. We are both sponsors. The Senator from Colorado has done great work on this legislation, and I wish to thank him for his assistance as we move it forward. I also wish to thank, on this particular issue, both Senator DODD and Senator SHELBY, who walked the extra mile. I think it shows that if you work hard at legislating, and you are willing to compromise, it pays off. The original bill the Presiding Officer and I put in was tougher than the proposal here, but the proposal here is good and strong. It makes a huge difference between what exists now—which is virtually nothing—and what will become law, and it is something I think everyone can be proud of.

I also wish to thank those in the consumer industry. As do I, as well as the Presiding Officer, they wanted a stronger bill, but they understood that when you legislate, you can't let the perfect be the enemy of the good. Getting something strong is better than getting nothing, even if you would have preferred something stronger.

Well, we are all familiar with gift cards. In many ways, they are the perfect present. You get the opportunity to choose whatever you want the most. When you get a gift card, it is great. You can think of 15 different things you want and decide which one you want to buy. You can go to the store, pick out what you want, and get it without spending a dime of your own money.

We have all opened that gift from Aunt Edna and wished she had spent the money on a gift card instead of that sweater you are never going to wear. I, for one, am not very good at picking out gifts. So gift cards are a boon to me, not only as a recipient but as somebody who gives gifts because I can buy the gift card, and I can breathe a sigh of relief that my family member or friend will have something they want instead of something I have chosen that they might not want at all, which often happens when I choose gifts. I guess I am a little like Aunt Edna.

Gift cards are a very good thing, and we don't want to snuff them out or limit their extent.

But what most people do not realize is that these gift cards often come with hidden fees and short expiration dates. After a period of time that can be as short as 6 months, the issuer begins charging value off the cards, reducing their value and depriving recipients of their gifts. That means if your mom or aunt or friend did their holiday shopping early, by the time April or May rolled around, you could be slowly but

surely giving your gift card back to the bank piece by piece by piece.

Consumers usually pay a high fee when you buy the card, sometimes as much as 20 percent of the value. Well, on top of that, the recipient of the cards faces other charges such as monthly maintenance fees, dormancy fees or even a separate fee for each time the card is used. That is not fair. It is not fair when you get a gift card, say, at Christmastime and you say: I will save it until June to buy something I can use in the summer, and you go to the store and the gift card doesn't have the whole value on the card. That is not right. It is not fair. Frankly, it is not what the giver signed up for when he or she bought that card and gave it to you in a gesture of friendship or love.

For years, issuers of these cards have used fees to make hefty profits, largely on the backs of consumers, but with this legislation we are going to ensure that recipients are protected and can use their cards free of these duplicitous fees for a reasonable period of time.

First, the bill ensures that no fee can be charged unless there is no activity on the card for 12 consecutive months from the date on which the last charge is imposed. Let me explain. If you purchased the card the week before Christmas and give it to your child, parent, spouse on Christmas Day, for a whole year, until next Christmas, that card doesn't decline in value one penny. That is a very good thing and very much needed. During that year, if you use the card once but don't use the whole value—let's say it is a \$50 card and you buy something for \$22—the 12-month period starts again so you have plenty of time to use the card.

Second, the bill will require the Federal Reserve to determine a fair amount for the fees and set a minimum balance above which fees can't be charged. So the issuers aren't charging people exorbitant rates to use their cards and aren't taking up the entire value of the cards with these fees. If, for instance, the gift card is for \$50 and they charge you \$5 a month, within 10 months, the gift card is useless. It is my view the fee will not be more than \$1 or \$1.50 when the regulator sets it, and it will give the gift card a much longer life. Of course, we are leaving it up to the Federal Reserve.

We are also letting them set a minimum balance. My guess is it will be \$15 or so, above which the fee doesn't bite in, so the gift card will last a lot longer.

Fourth, the bill ensures that gift cards have expiration dates of at least 5 years from the time they are issued. It is simply unfair to cancel the gift totally after 6 months or even a year. So now the gift card stays in existence for 5 years.

I believe this legislation makes gift cards fairer, better, and even happier gifts to give during the holiday season, for birthdays or an anniversary. I encourage people to use the gift card.

One other point I think is very important. This legislation, for the first time, will make sure that so-called open loop cards—the kind which can be used anywhere and that you get as a holiday present—will be regulated at all. There has been no regulation before. Consumers Union, U.S. PIRG, the National Consumer Law Center, and the Consumer Federation of America all support the actions we are taking on this issue. We have heard from one of the biggest gift card issuers that they, too, are comfortable with this bill because we are making common-sense changes to this business to ensure that consumers can get a fair deal and that issuers can continue to offer these valuable products. The bottom line: You get a gift card, you know it is going to have its full value for at least a year, with no expiration date, no monthly fee that takes a chunk off the gift card. It means what you are giving the recipient is getting, nothing less.

At the end of the day, the reason this bill has been so important to me and to the Senator from Colorado, who worked so hard on it with me and others, is we want to protect consumers who purchase these products as gifts for their friends and loved ones. Consumers who purchase or receive a \$50 gift card should get \$50 in value without having to pay excessive fees.

#### CONTINENTAL CONNECTION FLIGHT 3407

Mr. President, I want to speak a little bit about the conclusion of the NTSB hearings that occurred this week in reference to Continental Connection Flight 3407.

We all know what happened on that flight. On February 12, 2009, the lives of family members, many of whom live in western New York, changed in a tragic and dramatic way when they lost their loved ones on a Buffalo-bound flight from Newark Airport.

I met with some of these family members on Tuesday—nine family members who lost loved ones on that flight. First, I have to express my respect and admiration for these family members. It was a little less than 3 months ago that they lost a husband, a wife, a child, a parent, or a fiancé, and there is a huge hole in their hearts. Yet they were down in Washington making sure that a thorough investigation was done to determine why flight 3407 crashed, and then to continue working to see that corrective measures were taken on all other flights, so that what befell their loved ones would not happen to others. It was an act of bravery, courage, strength, fortitude, generosity, and compassion. The people in that room—and we had some heartfelt moments together—were saintly. They were trying to light a candle amidst the darkness that enveloped their lives. I felt for them when we met, as I feel for them today.

The crash of flight 3407 in Clarence, NY, claimed 50 lives and serves as a tragic reminder that our Nation's aviation industry is not immune to tragic incidents.

The 3-day-long hearings at NTSB have revealed some very disturbing

suggestions into what may have caused the crash of the Bombardier Dash 8 Q400 airplane.

First, I am troubled by the reports that the Colgan pilots of the Dash 8 were not adequately trained in the operation of the "stick-pusher"—the instrument installed in aircraft like the Dash 8 that prevents an aircraft from stalling. The stick-pusher is not demonstrated in pilot flight training simulators, and experts believe that the pilots are missing out on important hands-on training.

Suffice it to say that when the flight flew over Clarence, just before it crashed, the pilots may not have been adequately trained to deal with what was happening.

Colgan maintains that the FAA does not require this kind of simulator training. Today, I have written to Secretary Ray LaHood and asked that he reevaluate FAA's approval of airline training curricula.

We have also learned that the pilots of flight 3407 were not properly rested before their flights. It is obvious why. The young copilot of the flight lived in a suburb of Seattle, and her salary was \$16,000 a year. She flew across country, tired, sleeping in an empty pilot seat, if she could—no stop, no rest, and then boarded the flight to Newark that she was copilot of on its way to Buffalo. It seems that it may be—I hope not, but it seems like it—that some commuter airlines both underpay and overwork their pilots to save costs. There is an unfortunate possibility that they could put safety second, with cost cutting first. That just cannot be. That has to change.

The second thing I am doing is urging the FAA not only to look at the number of hours that a pilot can fly—they have regulations for that—but the conditions which a pilot who begins a flight has endured previous to the flight, so that they are alert and rested as their tenure for that day or that few days begins.

The airline industry is evolving. What we are seeing is more and more smaller commuter airlines, and the FAA is not keeping up. The FAA needs to crack down on issues of pilot rest, compensation, and training, especially with these young airlines that seem to be prioritizing issues of saving money. They should be making priority No. 1 the issue of safety.

For the last 8 years, the FAA has had ineffective leadership with one goal: to cut costs. The head of the FAA—I met her and had arguments with her—seemed to take direction almost all the time from the OMB. All of us believe we should cut costs in this Government—I certainly do—but not when it comes to safety. I believe that the FAA, which requires the small commuter airlines to observe the same regulations as the larger airlines, hasn't kept up enforcing the rules with so many of the commuter airlines out there.

The crash investigation also initially suggested that icing conditions may have affected the aircraft. A bright

light was shed on the fact that the NTSB and the FAA have differing recommendations as to how a pilot should handle an icing situation, and that the NTSB first asked the FAA to adopt the NTSB's recommendations 12 years ago—to no avail.

For this reason, I, along with my colleagues Senator ROCKEFELLER and Senator DORGAN, called for an official GAO investigation into what specific roles the NTSB and the FAA should be playing in aircraft icing prevention, and why such a lag exists between the time the NTSB makes a recommendation and the FAA formally adopts it. It seems to me—these are just my observations—that the NTSB does put safety first, and I sometimes wonder if the FAA is always doing that.

The GAO has informed us that they are in the process of forming an investigatory team for our request and will begin to pursue answers soon.

In conclusion, I cannot say enough how humbled I am by the work of all of flight 3407's family members. It is a tribute to their loved ones' lives that they are in Washington to advocate for aviation safety. I assured them, as we talked and prayed together, that I would do everything I could to make sure we get to the bottom of what happened on flight 3407, and then take whatever corrective action needs to be taken to prevent future flights such as 3407 from crashing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

#### AUNG SAN SUU KYI

Mr. MCCAIN. Mr. President, I briefly rise on the floor today to discuss the latest outrage in the long-suffering country of Burma. I speak of the imprisonment of Nobel Peace Prize laureate Aung San Suu Kyi.

Aung San Suu Kyi is the leader of Burma's National League for Democracy, the party that won the country's 1990 elections decisively—elections that were quickly nullified by the Burmese military. She has been imprisoned by the thuggish military junta that runs that country. Ms. Suu Kyi has spent the majority of the past two decades under house arrest. Now the Government has moved this remarkable woman to Insein Prison compound and charged her with violating the terms of her house arrest, which was illegal to start with. She faces a potential sentence of 5 years in jail. Two other NLD members face similar charges.

While reports remain somewhat opaque, these charges appear to stem from the uninvited visit of a United States individual who entered Ms. Suu Kyi's home compound after swimming across a nearby lake. He then reportedly stayed on her compound for 2 days, despite requests to leave. Based on this occurrence, the regime appears now to allege that Ms. Suu Kyi has broken the law by not requesting permission in advance to have a visitor.

As a penalty, then, for an uninvited person showing up on her doorstep—while she remained imprisoned inside—the Burmese regime proposes to sentence her for up to 5 years in jail.

All of this represents, of course, the latest pretext dreamt up by the Burmese junta in order to prevent the legitimately elected leader of the country from interfering in its plans for dominance. The generals who run the country are planning “elections” to be held next year, and which they believe will legitimize their illegitimate rule. They seek ways to ensure that Ms. Suu Kyi and other NLD members are not free to participate in these elections, since it is the NLD—and not the military junta—that has the support of the Burmese people. As political prisoners, including Aung San Suu Kyi, fill Burmese jails, the international community should see this process for the sham it represents.

I once had the great honor of meeting Aung San Suu Kyi. She is a woman of astonishing courage and incredible resolve. Her determination in the face of tyranny inspires me and every individual who holds democracy dear. Her resilience in the face of untold sufferings, her courage at the hands of a cruel junta, and her composure despite years of oppression inspire the world.

Because she stands for freedom, this heroic woman has endured attacks, arrests, captivity, and untold sufferings at the hands of the regime. Burma's rulers fear Aung San Suu Kyi because of what she represents: peace, freedom, and justice for all Burmese people. The thugs who run Burma have tried to stifle her voice, but they will never extinguish her moral courage.

The world must now respond to the junta's latest outrage in a way that demonstrates the inevitability of those values she so clearly demonstrates. The work of Aung San Suu Kyi and members of the National League for Democracy must be the world's work. We must continue to press the junta until it is willing to negotiate an irreversible transition to democratic rule. The Burmese people deserve no less. This means renewing the sanctions that will expire this year, and it means vigorous enforcement by our Treasury Department of the targeted financial sanctions in place against regime leaders. It means being perfectly clear that we stand on the side of freedom for the Burmese people and against those who abridge it.

The message of solidarity with the Burmese people should come from all quarters, and that includes their closest neighbors, the ASEAN countries. The United States, European countries, and others have condemned her arrest and call for her immediate release.

I ask unanimous consent to have printed in the RECORD at this time a declaration of the Council of the European Union, and others by the Federation of International Rights, and the International Federation of Human Rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF THE PRESIDENCY ON BEHALF OF THE EUROPEAN UNION ON DAW AUNG SAN SUU KYI

The European Union expresses its strong concern following reports on the health of Daw Aung San Suu Kyi, leader of the National League of Democracy and Nobel Peace Prize laureate, and on the recent detention of her physician, Dr. Tin Myo Win.

The EU calls on the authorities of Burma/Myanmar to guarantee for Ms Suu Kyi immediate and proper medical care, as well as access for her personal attorney. It furthermore recalls that her house arrest, which has been imposed in clear breach of international norms, will expire this month, and therefore again urgently calls for her unconditional release.

On the sad occasion of the anniversary of Ms Suu Kyi's detention, the EU urges the authorities to halt systematic torture and denial of health care to prisoners and to release all political prisoners.

“The regime's fear of the widespread popularity of Daw Aung San Suu Kyi remains, and they hope to keep her silent and hidden before the 2010 elections. There is widespread anger in Burma over the sham constitution the election is based on, and the only way to bring peace and stability to our country is by genuinely involving Daw Aung San Suu Kyi in the process of national reconciliation. Otherwise, the results could be disastrous”, said Mahkaw Khun Sa, General Secretary of Ethnic Nationalities Council.

Daw Aung San Suu Kyi remains the world's only imprisoned Nobel Peace Prize recipient.

INTERNATIONAL COMMUNITY MUST ENSURE RELEASE OF DAW AUNG SAN SUU KYI AND HER DOCTOR

Seven leading alliances, representing all major ethnic and political forces of Burma's democracy movement, today express deep concern for the security and health of Daw Aung San Suu Kyi and urgently call for her immediate and unconditional release, as well as the release of her doctor Dr. Tin Myo Win.

There is serious concern for the health of Daw Aung San Suu Kyi. She is found with low blood pressure and dehydration and must immediately receive thorough medical attention. Her doctor, Dr. Tin Myo Win, who has been the only person allowed to visit her for monthly check-ups, was detained by authorities on May 7, and his whereabouts is unknown and it is uncertain when he will be released.

Daw Aung San Suu Kyi has been under house arrest for 13 of the past 19 years, and the UN Working Group on Arbitrary Detention recently declared her continual detention illegal. Her detention legally expired on May 24, 2008. While the people of Burma and the world eagerly await for her release as her year-long extension is set to expire, it is of grave concern that the military regime may continue to hold her without any charges.

Besides, they must not use false charges, such as the incident of the intrusion of the foreigner into her home on May 3rd, to try and further incarcerate her and Dr. Tin Myo Win.

“From the beginning of her arrest, authorities declared that they had to detain Daw Aung San Suu Kyi for the reason of ‘protective custody’ and thus the authorities are the ones responsible for the intrusion,” said Moe Zaw Oo, Foreign Affairs Secretary, National League for Democracy—Liberated Area.

The seven alliances, representing a broad-based democracy and ethnic forces, urgently

call on the United Nations Secretary General, as well as ASEAN and key regional countries to take urgent and firm measures to ensure the immediate and unconditional release of Daw Aung San Suu Kyi and Dr. Tin Myo Win.

“The continual detention and mistreatment of Daw Aung San Suu Kyi and the other 2100 political prisoners in Burma stands against international and regional laws and principles, and there should be no hesitation by the international community to guarantee their direct release,” said Thin Thin Aung, Presidium Board member of Women's League of Burma.

INTERNATIONAL FEDERATION  
FOR HUMAN RIGHTS,  
Paris, May 14, 2009.

His Excellency BAN KI MOON,  
Secretary General of the United Nations, United Nations Secretariat, New York, NY.

DEAR SECRETARY GENERAL: The International Federation for Human Rights is addressing to you in order to request your urgent intervention in Burma/Myanmar in favor of the Nobel Prize for Peace and leader of the National League for Democracy, Daw Aung San Suu Kyi.

FIDH has already expressed its deep concern regarding the health of Daw Suu Kyi, following information that her situation had worsened in the past few days. Ms. Suu Kyi's blood pressure was reportedly low, she was suffering from dehydration and had stopped eating. In addition, her medical doctor, the physician Tin Myo was arrested on May 7th, following his visit to Ms. Suu Kyi and is still under detention.

Unfortunately and despite the fragile state of health of the Nobel Peace Prize, FIDH was informed that Daw Aung San Suu Kyi has been transferred to Insein prison in Yangon, and appeared today before a special court, in order to hear the charges against her, her two live-in party members Daw Khin Khin Win and her daughter Win Ma Ma and an American man, John William Yettaw. They are all charged under section 22 of the State Protection Act (Law Safeguarding the State from the Dangers of Subversive Elements). The charges relate to the violations of the rules and regulations surrounding her house arrest. If she is convicted of this offence, she will be subject up to three years of imprisonment under this article. During her appearance before the court today, Ms. Suu Kyi was not asked any questions. The judge ordered the defendants to return to court again on May 18, 2009.

According to the latest information, Daw Aung San Suu Kyi, Daw Khin Khin Win and Daw Win Ma Ma were not sent back to their residence. They are currently detained in Insein prison.

The International Federation for Human Rights condemns in the strongest possible terms this new campaign of intimidation and harassment against the Nobel Peace Prize, ahead of the 2010 elections and just some days before her house arrest is due to expire at the end of May. This last episode deprives the “road-map to democracy” and the electoral process in Burma/Myanmar from any legitimacy.

The United Nations and you personally have been long engaged for the reconciliation process of all parties in Burma and the dialogue with the Burmese authorities. The United Nations have received in the past harsh criticism for the absence of concrete measures to improve the human rights situation in Burma/Myanmar, despite the strong engagement of the various United Nations mechanisms.

The intentions of the Burma/Myanmar authorities are seriously questioned today worldwide, it is time for the United Nations

Security Council and you personally to take urgent action for the immediate and unconditional release of Ms. Suu Kyi. Daw Aung San Suu Kyi has a crucial role to play in the democratization process in Burma as a major political interlocutor. The collective responsibility of the international community and of the United Nations in particular, to protect the Nobel Peace Prize is now even more crucial than ever. FIDH is trustful that the United Nations will step up to this duty and guarantee the safety, security and freedom of Daw Aung San Suu Kyi.

I'm urging you personally to act as soon as possible to protect her integrity. The urgency of the situation requests coordinated and strong action.

Hoping that you will take the above considerations fully into account, I remain,

SOUHAYR BELHASSEN,  
FIDH President.

Mr. MCCAIN. Mr. President, the country's of Southeast Asia should be at the forefront of this call. ASEAN now has a human rights charter, in which member countries have committed to protect and promote human rights. Now is the time to live up to that commitment. ASEAN could start by dispatching envoys to Rangoon in order to demand the immediate and unconditional release of Aung San Suu Kyi. This courageous leader, and all those Burmese who have followed her lead in pressing for their own inalienable rights, should know all free people stand with you and support you. The world is watching not only your brave actions but also those of the military government whose cruelty and incompetence know no bounds. Burma's future will be one of peace and freedom, not violence and repression. We, as Americans, stand on the side of freedom, not fear of peace, not violence, and with the millions in Burma who aspire to a better life, not those who would keep them isolated and oppressed.

The United States has a critical role to play in Burma and throughout the world as the chief voices for the rights and integrity of all persons. It is a role we suppress at the world's peril and our own. A strong public defense of the rights of oppressed people has been and must remain an enduring element in American foreign policy. Nothing can relieve us of the responsibility to stand for those whose human rights are in peril or the knowledge that we stand for something in this world greater than self-interest. Should we need inspiration to guide us, we need look no further to that astonishingly courageous leader, Aung San Suu Kyi.

The junta's latest actions are once again a desperate attempt by a decaying regime to stall freedom's inevitable success in Burma and across Asia. They will fail, as surely as Aung San Suu Kyi's campaign for a free Burma will one day succeed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I rise today in support of the Credit Card Accountability and Disclosure Act of 2009 and the ways in which I believe this

measure is in the best interests of my constituents in North Carolina.

Before I begin, I would like to thank my colleagues from Connecticut and Alabama, Senators DODD and SHELBY, for bringing together concerns and ideas from both sides of the aisle to craft a bipartisan compromise. This bill could not come at a more critical time for North Carolina's hardworking families.

More often than not, through no fault of their own, North Carolina families are suffering tremendously during this time—the harshest economic climate since the Great Depression. Our unemployment rate is 10.8 percent—the fourth highest in the Nation. Home values have declined dramatically. Many families have lost nearly all their savings. Nearly a half million jobs have been lost in North Carolina. From banking to manufacturing, North Carolina is home to some of the industries that have taken the biggest hit in this economic downturn. To say the least, the situation is dire for many families in North Carolina and around the country.

The people of my State are hard-working and honest. While they are struggling to make this month's mortgage payment or put food on the table for their families, they are troubled by next week's and next month's bills. They are concerned about the unexpected expenses they may have to bear—for example, an illness or their car breaking down. With all the other issues these families are dealing with in this economic downturn, imagine realizing that you are still paying interest on a balance you thought you had already paid or watching that interest rate double because times are tight and you fell just a little behind.

Unfair, yet all-too-common credit card practices, such as interest charges on debt paid on time—a practice known as double-cycle billing—arbitrary interest rate increases, and exorbitant and unnecessary fees are only making matters worse for families who are already struggling just to get by. Obviously, it costs money to borrow money. Nobody is suggesting that credit card issuers shouldn't be able to make a profit. But for consumers the rules should be fair, transparent, and exactly the same from the beginning to the end.

I support the Dodd-Shelby amendment because it requires just that. The bottom line is that this bill restores fairness and sensibility to credit cards and a sense of security to families in North Carolina. This bill ensures that credit card companies honor their promises and specifies that the card companies can't change the rules in the middle of the game. While North Carolina's families are struggling, they shouldn't have to worry about hitting a moving target when it comes to paying their bills.

The Dodd-Shelby amendment will also provide consumers with simple, clear information that allows them to

make informed decisions that make the most sense for themselves and their families. One important step which will provide consumers with the information they need to make their choice is the payoff timing disclosure language included in this bill. The legislation we are considering would require credit card issuers to prominently display two important numbers on billing statements: the amount of time it would take to pay off the bill if the cardholder is paying only the minimum balance due each month, and the minimum monthly payment required to pay off the entire bill in 36 months.

For example, it would take a cardholder with a \$4,000 balance and an 18-percent interest rate, making the minimum payments, nearly 6 years to pay off their credit card. It costs next to nothing for issuers to provide borrowers with this information, but this information can be extremely helpful as cardholders try to become more efficient in their financial planning.

Ultimately, by keeping the rules fair, clear, and consistent, we can save American families thousands of dollars each year. As we work to right this ship and get our economy moving again, I cannot imagine this relief coming at a better time for North Carolina's families.

I am proud to stand on the floor of the Senate and voice my support for this measure. My constituents deserve progress, not lip service, on this and so many other important issues that they are grappling with in these hard economic times.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I support the Credit CARD Act of 2009. I want to commend the chairman of the Banking Committee for his outstanding efforts to craft this legislation. I also appreciate the work done by Senator SHELBY in developing a bill that should be able to garner broad bipartisan support and become law.

Too many in our country are burdened by significant credit card debt. Not enough has been done to protect consumers and ensure they are able to properly manage their credit burden. We must do more to educate, protect, and empower consumers. Although this comprehensive legislation has numerous provisions that benefit consumers, my remarks will focus on the portion of the legislation which is based on my legislation, the Credit Card Minimum Payment Warning Act. I originally introduced the act in the 108th Congress. I have greatly appreciated the efforts of Senators DURBIN, SCHUMER, and LEAHY, who helped develop and support

the legislation. I also want to acknowledge Senator FEINSTEIN for her contributions on this issue.

We attempted to attach our legislation as an amendment to improve the flawed minimum payment warning in the Bankruptcy Abuse Prevention Act. On March 2, 2005, an editorial in the Washington Post criticized the bankruptcy legislation then being considered. The editorial stated, "at the very least, as Senator DANIEL K. AKAKA has proposed, credit card issuers, who now send out five billion solicitations a year . . . ought to be required to disclose to borrowers the true cost of making only the minimum payments." Mr. President, I ask unanimous consent that the text of the entire editorial be printed in the RECORD following my remarks. Unfortunately, our amendment was defeated.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. AKAKA. Mr. President, although there have been some modifications and additions, the Credit CARD Act contains the primary provisions of my legislation. The legislation requires that consumers be told how long it will take to repay their entire balance if they make only minimum payments. The total cost if the consumer pays only the minimum payment, would also have to be disclosed. These provisions will make individuals much more aware of the true cost of credit card debt. Consumers would have to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months, which is a typical length of a debt management plan.

The personalized payment disclosures are important, but consumers must be given opportunities to find reputable credit counseling services. Section 201 also includes our requirement for creditors to establish and maintain a toll-free number so that consumers can access trustworthy credit counselors. The toll-free number will have to appear on credit card billing statements along with the minimum payment warning information. More working families are trying to survive financially and meet their financial obligations. Consumers often seek out help from credit counselors to better manage their debt burdens. It is extremely troubling that unscrupulous credit counselors exploit individuals who are trying to locate the assistance that they need. As financial pressures increase for working families, credit counseling becomes even more important. The CARD Act will assist working families with finding credit counselors that will help, rather than exploit, them.

Yesterday, I filed an amendment to the CARD Act to simplify the administration of the credit counseling referral provision. The amendment requires the Federal Reserve Board to issue the guidelines for the development and maintenance by creditors of a toll-free number to provide information about

credit counseling and debt management services. Referrals for credit counseling services via the toll-free number could only go to nonprofit credit counseling agencies approved by U.S. bankruptcy trustees. This modification will utilize an existing approval process and list of reputable credit counselors rather than creating a new approval process for the purposes of section 201. I thank the chairman and ranking member for their willingness to accept this amendment.

After many years, it appears that we may finally be enacting a bill that will educate, protect, and empower credit card consumers. Once again, I thank Chairman DODD for all of his outstanding efforts to help working families. The administration also deserves credit for their efforts to help move this legislation closer to enactment. I look forward to continuing to work with my colleagues and the administration on this and other essential consumer protection legislation.

#### EXHIBIT 1

[From the Washington Post, Mar. 2, 2005]

#### FIXING THE BANKRUPTCY SYSTEM

Until this year, the seemingly perennial congressional debate about overhauling the nation's bankruptcy laws was something of an academic exercise: The measure wasn't going to pass because Senate Democrats insisted on an abortion amendment unacceptable to the House. Now, with a bolstered Republican majority, it's not clear that Democrats can muster enough votes for that amendment, which would prevent anti-abortion protesters from filing for bankruptcy to evade damage awards. As a result, the underlying question about the bankruptcy bill suddenly matters: Does it strike the right balance between preserving the protections of bankruptcy and preventing abuse by spendthrifts? The bill is neither as draconian as its opponents protest nor as balanced as its supporters proclaim. Its central tenet, that those who can repay some of their debts ought to do so, is reasonable. But the bill could be made fairer with a number of amendments set to be considered.

The number of Americans filing for bankruptcy exploded in the past quarter-century. In 1980, there was one personal bankruptcy filing for every 336 households in the United States; in 1993, one for every 144 households; and in 2003, one for every 73 households. But there is little agreement on the cause of this growth. Those who support tightening bankruptcy laws say the system is abused by people who could repay their debts but are no longer deterred by the stigma once associated with bankruptcy. Those who oppose the change say credit card companies entice borrowers to run up their bills; they also cite the toll of medical debt among those who lack adequate health insurance.

The Senate bill would tighten access to the most generous and popular form of bankruptcy, Chapter 7. People filing for Chapter 7 bankruptcy can wipe out their debts and get a "fresh start." The bill would impose a means test: Debtors who earn less than the median income in their state—about 80 percent of those who file for bankruptcy—still would be entitled to file under Chapter 7. But those who earn more than that—and who have the ability to repay at least \$6,000 over five years—would have to file under Chapter 13, which requires a repayment plan. Experts estimate that means testing would affect no more than 10 percent of consumer bankruptcy filers.

In theory a means test is reasonable, but the test in this legislation is unnecessarily rigid. It considers the previous six months of earnings, even if the bankruptcy filer is now out of work. Moreover, once filers show that their income is below the median, there's no reason to require them to provide additional information. Sen. Edward M. Kennedy (D-Mass.) has outlined amendments to address these issues, as well as a sensible proposal that would provide a \$150,000 homestead exemption to help the elderly and those driven to bankruptcy by medical expenses keep their homes.

If the Senate tightens rules for those filing for bankruptcy, it also should crack down on the corporate practices that contribute to the problem. At the very least, as Sen. Daniel K. Akaka (D-Hawaii) has proposed, credit card issuers, who now send out 5 billion solicitations a year and whose profits have soared, ought to be required to disclose to borrowers the true cost of making only the minimum payment on their balances.

Mr. AKAKA. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN.) Without objection, it is so ordered.

Mr. BROWN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GENERAL MOTORS

Mr. BROWN. Madam President, it has come to my attention that General Motors, one of America's largest corporations—that General Motors, which is seeking Federal assistance to save their business—now has plans to take that money and create jobs. That should be good news. That is, after all, what Congress intended; that General Motors take money the Government loans them and taxpayers send to them, that it awarded a U.S. company—this company—more than \$15 billion in Federal loans earlier this year, that they would, in fact, create jobs.

But that is why I was in a state of disbelief last night when I learned General Motors is not going to create those jobs in the United States, not in my State of Ohio, not in Michigan, not in Indiana, not in big auto States, not in Missouri, they are going to create jobs not in the United States, those States which continue to hemorrhage auto jobs.

In fact, what GM wants to do is take our tax dollars and create jobs in China by building a new car, a car they will then export back into the United States for Americans to purchase. Let me say that again. GM is taking U.S. tax dollars, going to close American auto plants, open new auto plants in China, then sell those cars it produces back into the United States to Americans.

The audacity of such a plan cannot be emphasized enough. In short, it is outrageous. It appears that what is good for GM is no longer good for America. This is a slap in the face to American autoworkers, to American taxpayers, to American communities. It is a slap in the face to every autoworker in Ohio, in neighboring Michigan, in every State where men and women work hard and play by the rules and pay their taxes, not just States that produce autos, but the States—all 50 of our States—that produce auto parts, components and tires and glass and door locks and all the other kinds of things that go into cars.

These funds, those auto funds that came from taxpayers, were meant to rebuild our Nation's middle class, not dismantle it, not dismantle the middle class, not shut these plants and then send jobs overseas.

If GM officials think U.S. taxpayers will finance cars made in China while American plants are closing, GM is either tone deaf or tunnel visioned. I would urge GM not to betray the working men and women of our Nation. We have the most talented labor force and qualified autoworkers anywhere, bar none.

I would invite GM officials to travel with me across Ohio; to Lorain, to Twinsburg, to Lordstown, all auto plants, all auto cities. That is just in northeast Ohio alone. All across our State we have the greatest, most talented labor force to build these cars. We have the facilities to produce these cars.

The question is whether GM has any commitment to our Nation, a nation whose taxpayers are working to rescue them. There is no excuse for GM using taxpayer funds for Chinese imports, not when there are American workers ready to build these cars, when there are shut down or idled U.S. auto plants prepared to produce them.

Smaller, more fuel-efficient vehicles represent the future of the auto industry, and American workers can produce and must produce those vehicles in the United States. Ohio workers will not stand idly by while GM sends these jobs and our tax dollars overseas to a nation with little or no labor standards and woefully weak safety standards.

Interestingly, when you think about the safety of these cars that may, in fact, be built by GM in China and sent back to the United States, think about some of the practices in other consumer products. Think about what happened with contaminated products, contaminated ingredients that went into Heparin, a blood-thinning drug that came back and killed some 100 Americans because of contaminated ingredients, or think about Hasbro toys, which were outsourced to China, where those Chinese subcontractors put lead-based paint on these toys. They came back to the United States and had toxic parts-per-million amounts of lead in the paint and on those toys.

If GM wants to receive more funds from U.S. taxpayers, it must commit

to using those tax dollars to maintain jobs and production at home. Today, I wrote Secretary Geithner, the Secretary of the Treasury, urging the Obama administration, as part of the terms of further Government assistance, to require GM to invest in U.S. production.

The President's Auto Task Force has a difficult job. Its mission is to guide GM toward long-term viability and toward success. Given the number of auto manufacturing layoffs in my State, given the sacrifices autoworkers and their families continue to make to facilitate the restructuring of GM, I do not see how the administration can, in good conscience, provide taxpayer funds to support General Motors' offshoring of auto production.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DERIVATIVES REGULATION

Ms. CANTWELL. Madam President, I rise to discuss what I hope will be a turning point on our road to economic recovery. The Obama administration yesterday asked Congress to swiftly pass sweeping and historic regulatory reforms on derivatives, credit default swaps, commodities trading, and other sectors of the financial marketplace that collapsed last year under the weight of unrestrained speculation. The road to this point has not been easy. For months I have been urging the administration to move quickly to propose strong regulatory controls on these markets, require transparency in derivatives trading, and restrict market manipulation. With the announcement yesterday by Treasury Secretary Geithner in a letter he sent to Senate and House leaders, the administration has come down decisively on the side of imposing order on a marketplace whose collapse made this current recession so much deeper and more painful for the average American than it needed to be.

The administration clearly supported in writing bringing the unregulated "dark" over-the-counter derivative markets under full regulation for the very first time. The administration has correctly identified the top three key goals of regulatory reform in the unregulated over-the-counter derivatives market. First, transparency on all dark markets. All derivative transaction dealers will be brought under prudential regulation and supervision which means capital adequacy requirements, antifraud and antimanipulation authority, and very clear transparency and reporting requirements.

Second, all standardized trading of physical commodities and other derivatives will finally be required to be traded on fully regulated exchanges.

Third, imposing position limits on regulated markets to prevent any market player from amassing large positions that can harm the market. I have received in e-mail additional assurances from the administration that they believe these position limits should be applied in the aggregate across all contract markets to prevent fraud and manipulation.

Mr. Geithner's announcement yesterday was truly historic. Americans have suffered through an era of deregulation that is primarily the cause of this economic crisis. How did we get here and why is this historic?

A decade ago Congress passed, in the dark of night at the end of the Congress in 2000, a law known as the Commodities Futures Modernization Act that provided ironclad protections from regulation for financial tools. One courageous regulator, then Commodities Futures Trading Commission Chairwoman Brooksley Born, warned Congress and the financial community that unregulated derivatives could cause potential serious dangers to the economy. But some in Washington blocked her efforts, including Wall Street and senior administration officials.

One high-ranking Treasury official charged with pushing this deregulation bill through Congress was Gary Gensler, a former high-ranking executive at Goldman Sachs. As Under Secretary of the Treasury, Mr. Gensler testified before Congress that he "unambiguously opposed" regulating the derivatives market. Mr. Gensler was wrong. For Brooksley Born's courage in standing up to powerful financial interests in proposing tougher rules, she is being awarded the Profiles in Courage award by the John F. Kennedy Foundation this year.

With yesterday's announcement, this administration embraces the reforms that Brooksley Born argued we needed a decade ago. This was an uphill battle. There were too many people with a financial stake in the old, unrestrained trading system. But it was because of my concern that the President's commitments to government reform and increased transparency would be overshadowed by those willing to take a go-slow approach to regulatory reform that I placed a hold on the President's nomination of Gary Gensler to be Chairman of the Commodities Futures Trading Commission. In my view, Mr. Gensler helped perpetuate the lax regulation that contributed to our current economic crisis while he was Under Secretary of Treasury during the latter years of the Clinton administration.

While Mr. Gensler has recently stated he supports stronger regulatory rules for financial markets, in 2000, he supported legislation that provided ironclad protections against regulation of financial products such as credit default swaps and derivatives. I hardly need to remind my colleagues of the disastrous results of that course of action.

The world of derivatives and credit default swaps is foreign to most Americans. The vulnerability of these markets to rampant speculation and the complex set of regulatory structures needed to address the problems are not easy to grasp, even for insiders of the financial industry. But my constituents in Washington State know all too well the consequences of inaction and lax oversight. To us, the financial meltdown is not just an object lesson in greed and avarice playing out on the other coast; it is an issue that has affected our daily lives. We remember when the lights went out over the energy crisis brought on by Enron's predatory speculation that threw the western power grid into disarray. This perfect storm—a combination of drought, botched regulation, and Enron's market manipulation—cost west coast consumers more than \$40 billion, and it took years to unravel the mess.

The rules of the financial game may be esoteric, but the consequences of a financial meltdown are well understood by my constituents. It is because of my involvement in bringing Enron's speculative schemes to light and seeing the type of business abuse in the financial markets that I am determined to take steps to ensure that such abuse does not happen again. I am glad President Obama has listened to those on Capitol Hill and those within his own administration who believed strongly that bold and timely action was critical to ensure stability of our financial markets. I continue to have concerns about Mr. Gensler's appointment to head the agency responsible for regulating swaps and other derivatives whose collapse amid unrestricted speculation caused so much damage to the economy. But in light of the administration's significant and potentially historic stand on new controls over derivative markets, I am prepared to lift my hold on his confirmation and, instead, focus on ensuring that the legislation we pass includes the recommendations the administration has made.

I say that I hope the administration's new policy will become a turning point, because we have more work to do to make sure these concepts become law. The Treasury Department announcement was not a piece of legislation but, rather, a policy outline, a statement of the kind of bill the White House would support. It is now up to us in Congress to turn this into law. I am committed to working with Senate leadership to ensure that the resulting legislation closes loopholes and that we get about making sure that the previously poorly designed controls are eliminated.

Where necessary, we must be willing to go even further than the administration in crafting a bill that puts an end to destructive and predatory forms of speculation. But I applaud the bold position outlined in the Treasury Secretary's letter to House and Senate leadership yesterday.

The idea here is not to impose regulation for regulation's sake. The idea is

to protect the American people from the consequences of unrestrained speculation. Our constituents are justifiably angry, because they have seen millions of jobs and trillions of dollars in savings evaporate while speculators who aggravated the crisis floated away on golden parachutes.

Undoubtedly, in the weeks to come, Wall Street interests will have a lot to say about regulatory reforms. They should say it to the average American who has been taking a crash course in the financial crisis over the past year. Our obligation is not to these speculators. It is to the people who work hard, whose ingenuity and extraordinary productivity have provided the lift that has made our economy the envy of the world. It is now our time to do our job to put in the robust reforms that will make their hard work pay off in the days ahead.

I ask unanimous consent that Treasury Secretary Timothy Geithner's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,

Washington, DC, May 13, 2009.

Hon. HARRY REID,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR REID: In late March I laid out in congressional testimony a broad framework for regulatory reform. As I indicated then, one essential element of reform is the establishment of a comprehensive regulatory framework for over-the-counter (OTC) derivatives, which under current law are largely excluded or exempted from regulation. Since then, the Treasury Department has been consulting with the Commodity Futures Trading Commission (CFTC), the Securities and Exchange Commission (SEC), and other federal regulators regarding the design of such a framework. Today I am writing to follow up with further details on the amendments to the Commodity Exchange Act (CEA), the securities laws, and other relevant laws that I believe are needed to enable the government to regulate the OTC derivatives markets effectively for the first time.

Government regulation of the OTC derivatives markets should be designed to achieve four broad objectives: (1) preventing activities in those markets from posing risk to the financial system; (2) promoting the efficiency and transparency of those markets; (3) preventing market manipulation, fraud, and other market abuses; and (4) ensuring that OTC derivatives are not marketed inappropriately to unsophisticated parties. To achieve these goals, it is critical that similar products and activities be subject to similar regulations and oversight.

To contain systemic risks, the CEA and the securities laws should be amended to require clearing of all standardized OTC derivatives through regulated central counterparties (CCPs). To ensure that this measure is effective, regulators will need to take steps to ensure that CCPs impose robust margin requirements and other necessary risk controls and to ensure that customized OTC derivatives are not used solely as a means to avoid using a CCP. For example, if an OTC derivative is accepted for clearing by one or more fully regulated CCPs, it should create a presumption that it is a standardized contract and thus required to be cleared.

All OTC derivatives dealers and all other firms whose activities in those markets cre-

ate large exposures to counterparties should be subject to a robust and appropriate regime of prudential supervision and regulation. Key elements of that robust regulatory regime must include conservative capital requirements, business conduct standards, reporting requirements, and conservative requirements relating to initial margins on counterparty credit exposures. Counterparty risks associated with customized bilateral OTC derivatives transactions that would not be accepted by a CCP would be addressed by this robust regime covering derivative dealers.

The OTC derivatives markets should be made more transparent by amending the CEA and the securities laws to authorize the CFTC and the SEC, consistent with their respective missions, to impose recordkeeping and reporting requirements (including an audit trail) on all OTC derivatives. Certain of those requirements could be deemed to be satisfied by either clearing standardized transactions through a CCP or by reporting customized transactions to a regulated trade repository. CCPs and trade repositories should be required to, among other things, make aggregate data on open positions and trading volumes available to the public and to make data on any individual counterparty's trades and positions available on a confidential basis to the CFTC, SEC, and the institution's primary regulators.

Market efficiency and price transparency should be improved in derivatives markets by requiring the clearing of standardized contracts through regulated CCPs as discussed earlier and by moving the standardized part of these markets onto regulated exchanges and regulated transparent electronic trade execution systems for OTC derivatives and by requiring development of a system for timely reporting of trades and prompt dissemination of prices and other trade information. Furthermore, regulated financial institutions should be encouraged to make greater use of regulated exchange-traded derivatives. Competition between appropriately regulated OTC derivatives markets and regulated exchanges will make both sets of markets more efficient and thereby better serve end-users of derivatives.

Market integrity concerns should be addressed by making whatever amendments to the CEA and the securities laws which are necessary to ensure that the CFTC and the SEC, consistent with their respective missions, have clear, unimpeded authority to police fraud, market manipulation, and other market abuses involving all OTC derivatives. The CFTC also should have authority to set position limits on OTC derivatives that perform or affect a significant price discovery function with respect to regulated markets. Requiring CCPs, trade repositories, and other market participants to provide the CFTC, SEC, and institutions' primary regulators with a complete picture of activity in the OTC derivatives markets will assist those regulators in detecting and deterring all such market abuses.

Current law seeks to protect unsophisticated parties from entering into inappropriate derivatives transactions by limiting the types of counterparties that could participate in those markets. But the limits are not sufficiently stringent. The CFTC and SEC are reviewing the participation limits in current law to recommend how the CEA and the securities laws should be amended to tighten the limits or to impose additional disclosure requirements or standards of care with respect to the marketing of derivatives to less sophisticated counterparties such as small municipalities.

I am confident that these amendments to the CEA and the securities laws and related regulatory measures will allow market participants to continue to realize the benefits

of using both standardized and customized derivatives while achieving the key public policy objectives expressed in this letter. I look forward to working with Congress to shape U.S. legislation implementing these measures. We will need to take care that in doing so we do not call into question the enforceability of OTC derivatives contracts. We also will need to work with authorities abroad to promote implementation of complementary measures in other jurisdictions, so that achievement of our objectives is not undermined by the movement of derivatives activity to jurisdictions without adequate regulatory safeguards.

Sincerely,

TIMOTHY F. GEITHNER.

Ms. CANTWELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, it was my intention to call up two first-degree amendments at this time: Amendment No. 1094, which is an amendment that is cosponsored by Senator MCCASKILL and Senator COLLINS; and then it was my intent to call up amendment No. 1095. Both of these amendments are germane amendments. I understand that if I attempted to call them up now and set them aside, there would be an objection. So I will not do that at this time, but it is my intent to call up these, either before cloture or postcloture, because they are germane amendments. I just wish to alert our colleagues it is our intent to call up these two amendments.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, I rise to speak on an amendment that I intend to offer, cosponsored by Senators DURBIN and SANDERS, which would complement the Credit Card Act by restoring to each of the 50 States the power to enforce maximum interest rates against out-of-State lenders. I urge my Republican colleagues to attend to this as well because I know they have taken a particular interest over the years in the sovereign power of the State, what a constitutional scholar would call the Doctrine of Federalism, and this is certainly an important step in that direction.

The bill we are debating this week will make enormous advances in banning some of the most egregious credit card tricks and traps that consumers face out there. I commend the distinguished chairman for his heroic, patient, determined work in bringing us to this point. I believe we also need to

give State governments the ability to go after the most dangerous trap of all: outrageous and unjustifiable interest rates.

I have heard so many stories from countless Rhode Islanders: A missed payment or a late payment turned a reasonable interest rate into a 25-percent or 35-percent penalty rate, and a family suddenly finds itself in a hole it can't climb back out of.

Professor Ronald Mann of Columbia University has called this credit card business tactic the "sweat box." Credit card companies have found it profitable to hit their most distressed customers with penalty rates and fees that are designed to sweat out of those customers the maximum monthly payments before the inevitable bankruptcy filing.

Prior to 1978, all the way back to the founding of the Republic, States had the ability to prohibit excessive interest rates and to protect their citizens. It is part of our national history. That changed following a U.S. Supreme Court decision in 1978: *Marquette National Bank of Minneapolis v. First of Omaha Service Corp.*

*Marquette* did not seem like a big case at the time—not a case that would, in practice, end one of the sovereign State's most basic and ancient authorities—to protect their citizens. In *Marquette*, the Supreme Court interpreted the word "located"—one word—in the Civil War-era National Bank Act as giving regulatory authority over a loan to the States that was the primary place of business of the bank, as opposed to the State that was the location of domicile of the consumer. It seemed like a technical case, but the meaning of this one-century-old word defined that way has had the effect of crippling the ability of States to effectively police usurious lending practices by out-of-State banks.

Following *Marquette*, credit card lenders realized they could avoid State law consumer protections by reorganizing as national banks and operating their businesses out of a handful of States that either lacked meaningful interest rate restrictions or were willing to toss out their consumer protection laws in order to attract this new business. Thus began the proverbial race to the bottom. Today, it is unusual to find a credit card lender not based in one of the two or three States that have turned weak consumer protection into a profitable industry.

My amendment and the bill on which it is based, S. 255, would amend the Truth in Lending Act to legislatively reverse the *Marquette* decision, restore the historic power of the States, and to make clear that each State has the right to protect its citizens with interest rate restrictions on consumer lending no matter where the lender chooses to locate their physical office.

If enacted, Rhode Island, Connecticut, and other States could, once again, as they did for decades—for centuries before *Marquette*—say "enough"

to faraway credit card lenders gouging their citizens. As a former State attorney general who was closely involved in consumer protection issues, I feel strongly that States have an important role to play in protecting their citizens from abusive and heavy-handed business practices. This amendment would acknowledge and strengthen that role.

Mr. DODD. Madam President, would the Senator yield for an observation?

Mr. WHITEHOUSE. I gladly yield to the distinguished chairman of the Banking Committee.

Mr. DODD. I thank the Senator for raising this issue, and I appreciate the time he has put into this and the effort he has expended for what he is trying to accomplish. I know his constituents and mine suffer, as all of us do, from abusive interest rates and fees and believe that broader interest rate reform is something we in the Senate should carefully consider. In fact, a good part of this legislation is designed to do exactly that.

The Senator's amendment goes beyond the credit card reform, however, and would affect many varieties of consumer lending beyond just credit cards. I, therefore, would inquire of the Senator from Rhode Island if he would be willing to withhold his amendment and defer consideration of the issue as we are preparing to take up broader financial regulatory reform later this year; in fact, within the next few months.

In the interim, I wish to assure the Senator from Rhode Island, Mr. WHITEHOUSE, that he has my personal commitment that the Banking Committee, which I chair, will take a careful look at his proposal. We have held a major series of hearings on regulatory modernization, we are planning a number of others, and this subject will be an appropriate one for consideration in these hearings during the committee's consideration of related legislation. Perhaps the Senator from Rhode Island can recommend a witness or witnesses—I certainly know of several—who would like to testify, including himself or other Members who are cosponsors of his amendment, or like many of us who share his concern about the *Marquette* decision and what it has done in terms of usury laws.

I often point out that both in the Old Testament and the New Testament, while I don't claim to be a Biblical scholar, there was nothing that more outraged Jesus Christ than the money changers in the New Testament. Certainly, there are plenty of examples in the Old Testament of usurious lending practices. It is as old as Biblical times, the admonition regarding charging outrageous interest rates. We have rates today, as I have said before, that would make organized crime blush if they were to see them.

Anyway, the Senator has proposed a reform of our system of banking regulation with wide-reaching consequences, and the proposal deserves

the full vetting of the Banking Committee. I assure him we will have a full vetting.

I ask my colleague and friend from Rhode Island whether he would be willing to entertain this proposal and defer this matter until we deal with a larger set of issues and to also confirm for him my similar concern that he has raised and would have raised with this amendment.

Mr. WHITEHOUSE. Madam President, I thank the chairman of the Banking Committee for his offer. With this understanding, I will agree to withhold on my amendment on this particular piece of legislation.

I believe we need to look at broader interest rate reform, and I appreciate the commitment of the distinguished Banking Committee chairman to look at the Marquette issue in that context. I also wish to applaud the chairman for developing the legislation we are debating. This is one of those areas where wisdom accrued over years of legislative experience allows us to expand the realm of the possible, and of course legislation is the art of the possible. Through his wisdom, through his experience, he has been able to get to the very outermost bounds of the possible on this legislation and perhaps even move those outermost bounds out a little bit. So I applaud the chairman for this extraordinary accomplishment. The Credit Card Act will go a long way in cleaning up the practices of unscrupulous credit card lenders, and the Senators from Connecticut and Alabama deserve high praise for their hard work in bringing us to this point.

I thank both my colleagues and I yield the floor.

Mrs. MCCASKILL. Madam President, I congratulate the chairman of the Banking Committee for daring to go where no one was willing to go for a long time; that is, regulating the credit card industry. I have learned about some of the tricks of the credit card industry the hard way. My father had a significant and serious and protracted illness, and mom was trying to get through it without burdening any of us. Without any of us realizing it, she got in a hole with credit card companies. Once I figured out that she had gotten into the hole, I set about the business of trying to help.

I have a law degree. I am not a shy person. I am someone who is willing to say what I think. I helped write law at the State level, and I think I understand contract law. As I began to get through all the fine print and deal with the credit card companies that she was indebted to, I became more and more frustrated. I began to realize what has happened with unsecured debt in America through credit card companies. There is a lot of bait and switch that goes on. There is a desire to get hold of the credit card customer who never pays the principal. My mom was a dream customer. She paid like clockwork, in terms of the minimum payment, but never quite had enough to

get around to the principal. The saddest part of the story is how hard it was for me to pay off the cards. They didn't want me to pay them off. I remember being on a phone call for 3 hours, and I had been to several countries by the time the call was concluded. I was told that it was impossible for me to send a payment to pay off the card the same month. It had to be sent in a separate payment. We were trying to pay off the card. They didn't want it. One of my favorites is that she made a payment on a card, and I paid off the balance. Then a bill came, and it was a negative balance. They owed us money. But you are not going to believe it, but, again, they owed us money, and guess what they had done. They charged us interest. I called this person on the phone and said, "I am trying to figure this out. You owe us money and there is a charge for interest on the bill." That is when I began to learn the reality of "trailing" interest. It was mind boggling to me, the tricks and the traps that were embedded in these credit card agreements.

We got an e-mail from a constituent. Actually, we have gotten thousands of them, especially in the last 6 months. This letter says the following:

The reason I am contacting you is because of a problem with Bank Corp. I received several emails from Bank Corp [asking me] to apply for a credit card. I eventually did. The credit card interest rate was to be a fixed 7.99 percent. . . . After the card was approved, the interest rate was 7.99 percent for several months. Then the rate was raised to 23 percent and, as of the July, 2008 statement, the interest rate was raised to 35.49 percent. I called Bank Corp and spoke with Erin, the representative that answered the phone. After being put on hold for [a long period of time], I was told that my account was in good standing. The payments had been made on time. She said Bank Corp had changed their lending practices and that was the reason for the interest hike. I was told there was no lower rates available, even though my account was in good standing. I was also told there was nothing I could do to change this and there was no way to protest the interest hike.

This man asked me, "Is this legal?" Sadly, we had to tell him that it was every bit legal.

I understand the risk of unsecured debt. I understand that these banks are trying to get credit to people. But one of my favorite parts of the hearing we had on this subject was in Senator LEVIN's Permanent Subcommittee on Investigations, when I asked one of the credit card executives about the fact that they want to give these cards to college students. I am not lying about this; this was actual testimony given in this hearing. I asked him about the fact that they were sending cards to college students. I was trying to get to the bottom of the practice where they were doing kickbacks to colleges in return for their lists so that they could solicit the students, give them credit cards. My favorite response was when I asked, with as much sincerity as I could muster, "I guess you find these college students a good risk for all

these insecure debt." He said, "Yes, they are very good risks." I was thinking: what planet is he on? I have college students. They are no more a good risk than someone who has a horrible credit rating. They send these cards to kids because they know their parents, if they are in college, don't want them to get into trouble and they will bail them out if they get in too deep. They want to hook them into the pattern, charging big, paying interest only, and being on line to them for the principal for the rest of their lives.

We have work to do on this bill. I hope my colleagues on the other side of the aisle join us quickly in getting to a point where we can bring it to a final vote. It will stop many of these abusive behaviors—the ability to raise the interest rate because maybe you missed a utility bill by accident 1 month, or the practice of the trailing interest, where you find the credit card company owes you money and they still charge you interest. There are 3 amendments that I worked on with Senators LEVIN and COLLINS. One is no over-the-limit fee. If they let you go over the limit, they should not charge you a fee. And no interest on fees. And a very important amendment that we can do on credit card data collection so we have more information about what the interest rates are we are paying in America.

The irony of these spikes in interest rates for good credit customers is that this has occurred at a time when interest rates in our country are at a historic low. Ben Bernanke used about all the leverage he could to help our economy by lowering the interest rate, and lower the interest rate, and lowering the interest rate, and these companies can borrow money at very low rates. Yet, to the consumer right now, those interest rates are getting hiked and hiked and hiked—even when the person with the credit card has no indication that they present any kind of financial risk to that credit card company.

We wring our hands here about what we can do to help the people we work for. We know people are hurting now. I am not sure there is any piece of legislation that is more important to the people at home than this credit card bill, bringing to heel these companies who are taking advantage of an unlevel playing field, which is strewn with all kinds of information that is too difficult to even understand. Let's keep it simple and straightforward and make sure the rules are available for all people to understand, and let's make sure they are not engaged in the kind of practices that caused my mother so many sleepless nights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1079

Ms. LANDRIEU. Madam President, I come to the floor to speak about one of the pending amendments, No. 1079. In a few minutes, I am going to make a motion on that amendment.

I did not get to hear all of what the wonderful Senator and colleague from

Missouri said, but I take it that she, like I, supports the underlying bill. I can appreciate the need for this consumer protection. As chairman of the Small Business Committee, I have been hearing literally for months, as has the occupant of the chair, who has sat through hearings with me—we have heard the tragic stories of small businesses that have done everything right—businesses that had excellent business models, people who have been in business for four decades or longer, businesses that have never missed a credit card payment. You have heard their pleas to us to give them some relief.

The consumers generally have said the same. The wonderful thing is that this underlying bill gives some relief to consumers, to personal credit cardholders. I commend Senator DODD and Senator SHELBY for bringing this bill to the floor. It only got out of this Banking Committee, which is tough to get any pro-consumer legislation out of, unfortunately, by only one vote, I understand. But they got it to the floor. It is a very important bill. People cannot have their interest rates raised without notice. They cannot have their balances double charged. In other words, right now, today, if you owed \$5,000 on your credit card and you cashed in your savings bonds and everything else and paid \$4,500 on that balance to get it down, under the current law, credit card companies can still charge you the full interest on \$5,000. That is wrong. These same companies are receiving billions and billions of taxpayer dollars so they can turn around and fleece the people who are sending them the tax dollars to bail them out. It is unconscionable, truly. So the committee acted. They did the right thing. They extended these protections to consumers.

But there were some potential jurisdictional questions, or perhaps an oversight, that the bill does not protect holders of business credit cards. Twenty-five years ago, this wouldn't have been an issue, because most people who were building a business, or financing one, had other avenues of capital.

You can see on this chart the trend in credit card use. In 1993, 16 years ago, 16 percent of business owners said they used credit cards to finance their operations. In that 16 years, it has gone to 60 percent—from 16 percent to 60 percent. It has become a source of capital and cashflow, a tool, for small businesses.

Here again is another chart. We have learned this in our hearings we have had. Sources of small business financing in 2009: Credit cards, 59 percent, just about 60 percent; bank loans, 45 percent; vendor credit, 30 percent; used no financing—cash or savings—19 percent; private loans through a friend or family, 19 percent; and SBA loans, 5 percent. That is an important part, although it is small, which helps to finance. It is long term, I might say; our loans are 20, 25, 30 years. Some of these

others are only 30- or 60-day loans. It is small, but it is important. We hope with your leadership, Madam President, and that of the Senator from Maine, we can get this number up.

The point of this discussion is this number—60 percent: Small businesses in Louisiana, from New Orleans, to Alexandria, to Shreveport—small business people I see when I am shopping at Costco or at Sam's Club, standing in line, and I know it is not a family because they have four dozen oranges. No family eats that many oranges in a week, so you know they are buying for their small business or restaurant or for their corner store. So we know that these small businesses are relying more and more on credit cards.

In this bill we are voting on, there is no protection for them—zero. This bill only protects personal credit cards, not business credit cards. So the Landrieu-Snowe amendment, cosponsored by the occupant of the chair—and I will get the list of others in a moment—it was cosponsored by several Members of the Senate, and they are Senators CARDIN, SHAHEEN, BROWN, CANTWELL, INOUE, KLOBUCHAR, SNOWE, COLLINS, and I think others will be joining in support of this amendment. We have decided to offer an amendment that simply says the underlying safeguards for holders of personal credit cards should simply extend to businesses of 50 employees or less, up to \$25,000 on their business card, because there are many people who carry a personal card for personal business. Of course, they may carry a business card for business-related business.

I know we have to give consumers relief, but I am here to say, as the chairman of the Small Business Committee, if we don't give our small businesses some relief, we are not going to have an economy to depend on because if we are looking for people to create jobs—which I think is what the President is calling on us to do—those jobs are going to be created by the small businesses of America. That is why in this debate the National Federation of Independent Businesses—not a bastion of liberalism by any means—is supporting this bill, and the American Society of Travel Agents, the American Beverage Licensees, the Consumer Federation of America, the Food Marketing Institute, the National Association for the Self-Employed, representing tens of millions of self-employed individuals—and they find it ironic that we say we are trying to get help to the little guy and we say we are trying to get help from Wall Street to Main Street. Yet every time there are amendments on the floor to actually do that, they never seem to be able to pass.

I know there are arguments that say: Well, we don't know what the effect of this amendment will be. I can tell you what the effect will be. The small businesses in America, the 20 million that will be affected by this, will say: Thank you for not allowing my rates to go up without notice. Thank you for not al-

lowing them to double-charge me if I am paying down \$20,000 on my \$25,000 balance. Thank you, because I didn't get a penny from the TARP money, but at least I am getting some help through this consumer relief bill.

As I said, the National Federation of Independent Business, the National Small Business Association, the Petroleum Marketers Association of America, the Service Employees International Union, the Small Business Majority, and the Hispanic Chamber of Commerce, the Women's Chamber of Commerce, and the Black Chamber of Commerce have all endorsed this bill. We haven't heard yet from the U.S. Chamber, but I am hoping they will step forward—at least the small business section of the U.S. Chamber. I understand they represent large banks, credit card-issuing companies, so it is tough for them. But somebody has to speak up for small business, and I hope that right now my colleagues will consider this amendment.

Again, I am going to have to call it up for action now and actually move to table it, and when I do that, we will not be able to have any discussion on this because that motion is not debatable. That is why I am speaking about it now. But at least we will get on the record how people feel about this, and I am hoping we can get a substantial vote.

I have decided that even if it is just my vote, and the cosponsors and Senator SNOWE, at least the small business people in America will know there are some people here who understand they deserve the minimal protections this bill provides, particularly at this time, and that in the next year or two, or three, four, or five—until we get on safe ground—we need to be doing everything we can to help small businesses because without them, there will be no recovery. It is not the large businesses that are going to create these jobs. They are going to contract. They are going to redesign themselves. They are going to contract until things are safe. They are going to poke their head out of that shell when the way is clear. The people who are going to run out in the line of fire are the small businesses these people represent. They are the ones who are going to say: No, I am not going down. I am going to hire. I am going to keep moving forward because I know my idea is good or because I know when we come out of this recession, I will be able to make it. These are the people on whom we will build this recovery, and these are the people who need help today. We don't need to study it for 10 years or look at it for 5 years. These organizations represent the millions of businesses that need help today. So on behalf of this coalition, I think the facts are on our side.

This is not an anti-credit card company amendment, this is a pro-small business amendment. I know people have to make money. Everybody has to make money. And everybody is trying

to do what they can. But there is no excuse right now, when small businesses have to rely—as I said, 60 percent of our small businesses—and this is an average. In some States, it probably could be up to 70 percent of small businesses. In some States, maybe it is below 50 or 45. But it is still a significant number of businesses using credit cards to help finance their business. Let's give them a little help today.

So I move to call up and I ask for the yeas and nays on amendment No. 1079. I further move to table the amendment.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Madam President, I withdraw the request, and I ask for regular order on amendment No. 1079.

The PRESIDING OFFICER. The amendment is now pending.

Ms. LANDRIEU. Madam President, in order for me to get a vote on this amendment, I am going to have to ask for the amendment to be tabled. I would like to ask for the amendment to be tabled. Of course, I will be voting not to table it and will be asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

At the moment, there is not.

The motion to table is not debatable. Those in favor, say aye.

Ms. LANDRIEU. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, at this time I would like to remove my motion to table amendment No. 1079, but I would like it to remain pending.

The PRESIDING OFFICER. The motion to table is withdrawn.

Ms. LANDRIEU. I understand the amendment will still be pending. But when cloture is invoked, unfortunately, this amendment is going to fall because it is not germane to the bill so we will not be able to have a vote on this amendment, which was my hope. But because of time constraints and because of the difficulty of getting Members to the floor for the procedures that we would have to go through to have a vote, I am happy to report that the chairman of the committee has agreed to allow our committee, Small Business, to have jurisdiction over this matter.

We will, in the next few weeks, be putting together a bill on the Small Business Administration Reauthorization, which we have to do by matter of course and responsibility. I appreciate Senator DODD agreeing to acquiesce to allow our committee to have jurisdiction over this narrow matter. I intend, with the help of my ranking member,

Senator SNOWE, and the help of, I hope, the vast majority of the members of our committee, both Democrats and Republicans—I hope we will stand together to present at that time legislation that can provide real relief to small businesses that need all the help they can get.

We are not asking for artificially low rates to be set. We are not asking to tie credit card companies' hands in the event that small businesses renege on their payment plans or are late paying. We are just saying, if you are a business operating out there and you have paid your bills on time, you are paying your credit cards, you are meeting your obligations, that your rates cannot arbitrarily be raised.

We understand transactions and contracts between business people. This is not the Government stepping in to try to negotiate. This is simply a level playing field between consumers and small businesses.

Again, because 69 percent of businesses in America today depend on credit cards to finance their operations, I am here to say, and our committee will be back saying to the Members of the Senate, we must get our eyes on small business, on their access to credit, on their ability to survive so this recovery can take root, and we can create the kinds of jobs that will be necessary.

I am sorry because of the time constraints and the unwillingness of some here to be cooperative. But I thank the chair of the committee, Senator DODD, for allowing our committee to have jurisdiction. I can promise, as the chair of that committee, this amendment will be on the bill when our bill comes to the floor for consideration and we will get a vote. If people want to vote against our amendment—something may not be exact—fine. Let them vote against it. But I want the record to be clear that there are a number of Members of the Senate, hopefully a majority, who believe the same protections extended to consumers for their credit cards would be extended to businesses in America, small businesses—those with 50 employees or less—with at least a \$25,000 limit on their credit card. It is not going to be every business in America that will get covered, but it is the small businesses that are having the most difficult time.

I yield the floor.

Ms. SNOWE. Madam President, I rise today to join my good friend Senator LANDRIEU, the chair of the Senate Committee on Small Business and Entrepreneurship, on an amendment addressing a key deficiency in the Dodd-Shelby substitute, or Credit Card Accountability Responsibility and Disclosure—CARD—Act, currently pending before the body.

I congratulate Senate Banking, Housing, and Urban Affairs Committee Chairman DODD and Ranking Member SHELBY for their stalwart efforts to bring this critical bill to the floor to protect consumers from credit card

abuses. However, as drafted, the measure would leave small businesses out in the proverbial cold. Accordingly, the amendment we are filing today would extend the protections in both the Truth in Lending Act as well as the bill we are considering today to any credit card used by the 26.6 million small businesses with 50 or fewer employees. I would like to thank Senators BROWN, CANTWELL, COLLINS, CARDIN, INOUE, KLOBUCHAR and SHAHEEN for cosponsoring our amendment.

Although we will undoubtedly debate how broadly they should be written, the provisions the CARD Act contemplates would provide vital safeguards to consumer credit cards. No longer could credit card companies arbitrarily raise interest rates on outstanding balances at any time for any reason or increase them on future purchases without sufficient notice. Unbelievably, the Pew Charitable Trusts in its report, Safe Credit Card Standards, found that "93 percent of cards allowed the issuer to raise any interest rate at any time by changing the account agreement." Should they choose to carry a balance, once this bill is enacted into law, people will have certainty with respect to how much interest they will pay on their purchases and will not go to bed one night thinking they have a 10-percent rate only to wake up facing a 32-percent rate.

Additionally, this bill will prevent credit card companies from engaging in other abusive practices, such as "two-cycle" billing whereby a company assesses interest not only on the balance for the current billing cycle, but also on the balance for days in the preceding billing cycle. Moreover, the bill before the Senate will put an end to schemes that allow credit card companies to apply the entirety of a payment to balances with the lowest interest rates and, thereby, help families, which today have an average credit card balance of nearly \$10,700 and are struggling to stay afloat, emerge from a vicious cycle of debt. Finally, we will ensure that customers have 21 days to pay a bill once it is sent so that they have sufficient time to make a payment.

While this legislation would take great strides to shield consumers from abusive practices, it does not extend these safeguards to our Nation's small business owners who use credit cards to purchase goods and services, make payroll, and ultimately create 75 percent of this Nation's net new jobs. The fact is according to the National Federation of Independent Business—NFIB's—Access to Credit poll published in 2008, 85 percent of small business owners have one or more credit cards that they use for business purposes. NFIB data also revealed that 74 percent of small business owners use at least one business credit card, while 39 percent use at least one personal card.

Yet the bill before the Senate amends the Truth in Lending Act, which applies only to "consumer" transactions

that are defined as “one in which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.” The measure does not protect our Nation’s small business owners—many of whom, as I just mentioned—utilize credit cards to finance routine transactions.

First and foremost, the protections in the bill would not extend to entrepreneurs who make purchases for their enterprises using a small business credit card. Even more troubling is that, in many cases, the small business credit cards are, like consumer cards, issued based on the personal credit history of the card holder. Thus, although the two types of cards are in many instances indistinguishable, two different sets of rules and protections can apply.

Second, and although there is some debate among experts on this point, there is concern that the safeguards in the CARD Act may not apply if an individual made a significant amount of business purchases on a consumer credit card. The reason is that the Truth in Lending Act only protects purchases made on consumer cards primarily for personal, family, or household purposes, and it is unclear at what point businesses purchases would cease to qualify for protections if made on consumer credit cards. To protect small businesses with 50 or fewer employees, the Senate should clarify that purchases made on behalf of an enterprise using a consumer card will receive the protections in this bill.

Omitting 26.6 million of this Nation’s job-creating small businesses from credit card protections could have extremely serious consequences, particularly at a time in which we are counting on our small employers to lead us out of the most devastating economic recession since the Great Depression. Indeed, as Todd McCracken, the president of the National Small Business Administration, NSBA, testified on March 19 before the Senate Committee on Small Business and Entrepreneurship, on which I serve as ranking member, the credit card companies are abusing small firms. In fact, Mr. McCracken wrote in his testimony, “Imagine trying to run a business when one’s carefully-constructed business plan is upended by a retroactive interest rate hike. How can a small-business owner be expected to maintain—let alone grow—her business when the capital she has already used is no longer subject to the 12 percent interest rate she agreed to but an egregiously punitive 32 percent?”

These abuses are not just isolated incidents; they really do occur. To quantify what small businesses are facing, the NFIB’s Credit Card survey found that excluding cases involving an introductory offer, 20 percent of small business owners saw the interest rate on their outstanding balances increased at least once. Furthermore, 25

percent of small businesses were given less than three weeks notice to make a credit card payment on at least one occasion, providing compelling evidence that action must be taken.

I would also like to mention that other survey results bolster the NFIB’s conclusions. For example, the NSBA’s 2009 Small Business Credit Card Survey found that 57 percent of small business owners reported receiving their bill too close to the due date to mail it and have it be received on time. Incredibly, 33 percent of respondents reported receiving their credit card statement after its due date! That practice is simply outrageous, and it must be stopped!

To ensure that small businesses are not shortchanged and are adequately protected, the amendment Senator LANDRIEU and I are offering today would amend the definition of “consumer” in the Truth in Lending Act to include any small business having 50 or fewer employees. Accordingly, our amendment would have two beneficial effects:

First, it would extend all of the safeguards in the bill before us to small businesses with 50 or fewer employees regardless of whether they use a consumer of business credit card to make purchases. Small businesses would, therefore, be free from worries about any time interest rate increases and other abuses from which Americans have suffered from for far too long.

Second, the bill would extend protections already included in the Truth in Lending Act to small businesses. As a result, irrespective of whether they use a consumer or business card, our small firms would now be entitled to receive meaningful disclosures that will enable them to understand the terms of credit being offered and to compare one credit product to another. Such required disclosures include the finance charge, annual percentage rate, any charges that may be imposed, and a statement of billing rights. Our entrepreneurs should be focused on creating jobs instead of having to try to navigate very complicated credit card terms that are buried in fine print.

America’s small businesses—the engine that drives our Nation’s economy—deserve to be protected from potential credit card abuses that could cripple their operations. Their business plans should no longer be subject to the whims and arbitrary rate increases of the credit card companies.

In closing, I am pleased to report that the following organizations have endorsed the Landrieu-Snowe amendment: the National Federation of Independent Business, National Small Business Association, American Beverage Licensees, American Society of Travel Agents, Center for Responsible Lending, Consumer Action, Consumer Federation of America, Demos: A Network for Ideas & Action, Food Marketing Institute, National Association of College Stores, National Association for the Self-Employed, National Association of Theatre Owners, National Community

Reinvestment Coalition, National Consumer Law Center, on behalf of its low income clients, Petroleum Marketers Association of America, Service Employees International Union, U.S. Hispanic Chamber of Commerce, U.S. PIRG, and the U.S. Women’s Chamber of Commerce.

I ask my colleagues to join us and the groups I have just mentioned to support this targeted and common-sense amendment that would allow entrepreneurs to focus on what they do best; namely, creating new jobs.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. Madam President, I thank Chairman DODD for his hard work on this legislation. He deserves a great deal of applause and congratulations for putting the issue on Congress’ agenda and for producing a very strong bill.

Nobody in this body or in this country needs to be told about the effect of subprime mortgages on America’s families. We have seen the impact that unsustainable mortgage debt has had on our economy, and we know the pain it has caused. But while mortgage debt grew by 200 percent over a quarter century, credit card debt grew by more than 350 percent. Studies suggest that credit card debt plays an even larger role than mortgages in causing personal bankruptcies.

Even the explosion in mortgage debt has a lot to do with credit cards. Many Americans took predatory mortgages because they needed a way out of the massive credit card debt. A mortgage might have done them in, but their story started with a credit card.

Credit card debt is more than an economic issue, it is a families issue and a children issue. The explosion in credit card debt has taken a toll on all Americans, but children have been hit the hardest. In 2004, families with minor children were more than three times as likely to file for bankruptcy as their childless friends, and more children lived through their parents’ bankruptcy than their parents’ divorce.

We know bankruptcy has a devastating impact on families. Children in bankrupt families lose the comfort of a stable home. They can lose their ability to go to college. They might even lose more. Credit counselors report that families struggling with excessive debt are more likely to experience domestic abuse.

The explosion in credit card debt in this country was not the result of reckless spending by American families. Family spending on luxuries is roughly what it was 30 years ago. The face of debt in this country is not an irresponsible teenager but is a mother in over her head. Nor is our debt problem simply a matter of supply and demand. American consumers have not suddenly decided they liked high fees, harsh penalties, and skyrocketing interest rates. These expensive provisions are hidden in the fine print of card applications mailed to vulnerable communities.

Card companies call this outreach. I call it deception.

The reforms we are considering will not disrupt the system. They cannot stop credit card companies from providing credit. Any company that wants to help consumers live within their means has nothing to fear from this legislation. Any company that wants to offer a service to American consumers has nothing to fear. But if you are planning to mislead consumers, this bill will stop you. If you are planning to offer low rates and charge high ones, we will stop you. If you are planning to trick customers into paying fees and penalties, we will stop you. If you are planning to profit from the misery of American families, we will stop you. Frankly, it is about time.

Before I close I wish to quickly address an amendment offered by the senior Senator from Colorado. The amendment requires that Americans requesting their credit report also receive their credit score. For 6 years, credit agencies have violated the intent of Congress by failing to provide this information. Legislation passed 6 years ago required them to provide one credit report each year for free, but these credit reports do not have to include the one piece of information that is crucial and easiest to understand—the customer's credit score. The Mark Udall amendment will help Americans manage their credit without burdening credit agencies or anybody else. It is a good idea. I support it. I encourage all my colleagues to support it.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH.) Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1124

Mr. PRYOR. Mr. President, I rise to offer my support for the amendment on usury from my colleague from Arkansas, Senator LINCOLN. As some of you know—not all but some of you—Arkansas has a very strict usury limit in its State constitution, and it is been there for a long time. In fact, it used to be even more restrictive. Back in the 1980s, the people went to the ballot box, and they changed the constitution and made it much less restrictive than it was originally, but it is still very restrictive by national standards. But what has happened nationally has changed things in Arkansas and put Arkansas at a disadvantage.

I know there have been bills here like the Gramm-Leach-Bliley Financial Modernization Act in 1999. I know it

was well intentioned. I know there were good reasons, good national reasons and good financial reasons and a lot of good reasons to do that. However, what that act did is it preempted the Arkansas State Constitution by permitting in-state banks to charge the same rate of interest as the home State of any out-of-State bank that has a branch in that State. It was not specifically designed for or against Arkansas, but it was in the bill, it was in the law, and it has been the law since 1999. What that did is it, in effect, nationalized the usury rate for banks. Arkansas banks can now charge a higher interest rate than they could before Gramm-Leach-Bliley.

The injustice occurs when you look at the lending institutions that are not banks—maybe the State Student Loan Authority, maybe captive finance companies, maybe other types of lenders that are not banks. What has happened is it has worked a hardship, and some of those lenders cannot do business in Arkansas; they cannot afford to. So many small businesses, family-owned businesses such as car dealers and furniture retailers, cannot finance their goods to Arkansas consumers. The Arkansas consumer, if they can do it, maybe goes to a bank or a credit union or some other lending institution, in many cases paying a pretty high interest rate in order to get the money to do business. This hurts the Arkansas business community. It hurts the Arkansas economy.

Right now, what has happened is, given the stimulus bill—there are many financing tools in the stimulus bill for constructing roads and schools, for building renewable energy projects, the Build America Bonds, et cetera. But Build America Bonds are not available in our State because of the lack of competitiveness in the bond market. Again, it is our interest rate.

Given the financial times we are in, we find we are put at a disadvantage. No one intended this. Congress never did, the White House never did, the Congress back in 1999 did not want this to happen. But it is where we find ourselves today.

The people of Arkansas have once again decided to put this issue on the ballot, and they are going to do it. It has been referred out to the people. The legislature made that decision. It is on the ballot. The problem is, it is not until November 2010. So we have a year and a half to try to struggle through this economy with this very difficult, very adverse usury limit in our State.

What we are asking, what Senator LINCOLN and I are asking, given this amendment, is that we get temporary relief only through November 2010. This is just about an 18-month fix, to give us some relief during this time, get the credit flowing in our State the way it has been able to flow in other States, and let us take advantage of the stimulus bill, the stimulus package, the America Recovery Act we have

already passed, that we all benefit in certain ways, to let us in the State of Arkansas have the full benefit. The Governor supports this, and members of the legislature support this. They have asked us to do this for the people of the State of Arkansas.

People need to understand what this amendment will do. It will permit the current interest rate not to exceed—once this is passed, the interest rate cannot exceed 17 percent. We are not talking about taking the usury rate completely out of our State law; we are talking about giving us some temporary relief, up to 17 percent. Again, when it comes to some of the financing vehicles, such as student loans and bonds of various types, this is crucial to letting investment happen in our State.

There is precedent for this. Congress enacted, several years ago, laws that preempted Arkansas' usury provision for, as I mentioned before, the banking industry and for some other businesses. So we have done this before. Again, I am not sure those laws just affected Arkansas; they probably affected a lot of States. But basically, right now Arkansas is the only State left that needs some relief under the current situation in which we find ourselves.

The way it works right now, to let you all know, in our State, the limit for usury—an interest rate in our State is 5.5 percent. And 5.5 percent is a very low rate. It is a historically low rate. But it is because the Fed rate and some of the other things have gone so low. Our rate is tied to those Fed rates, those national rates. Again, in a good economy, in most years that makes sense, but right now it does not.

So what Senator LINCOLN and I are respectfully asking our colleagues to do is support her amendment, allow it to become law, allow Arkansas this temporary relief, not just to benefit from the stimulus bill we have already passed but also to benefit from—or at least find some relief in this very tight economy, to ease some credit in our State, to help the recovery in our State as we are hoping to find in every other State in the Union.

With that, I ask that when we do vote on the Lincoln amendment, we would all support it and that we would help relief come to all 50 States, not just 49 States. Again, this is temporary. It caps the interest rate at 17 percent, which by most standards is a very reasonable cap. It is something that will allow the credit to flow in our State and will allow student loans, the Build America Bond Program to have the full effect they need to have here in Arkansas.

With that, I thank my colleagues for their attention.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senators CORKER, CASEY, GRASSLEY, KERRY, LEVIN, MENENDEZ, and KOHL, to speak about our amendment to strengthen the underlying bill's protections for young consumers, and help

address the growing problem of college student indebtedness.

During this severe economic crisis and credit crunch, many Americans—especially college students with limited incomes—find themselves relying on credit cards more than ever before.

Our amendment will place commonsense restrictions on credit card marketing to college students; provide for increased transparency in university marketing deals with credit card issuers; and, protect students from some common credit traps.

This amendment achieves four essential objectives. It will: (1) prohibit credit card companies from offering gifts to students in exchange for completing credit card applications; (2) require universities to publicly disclose marketing agreements made with credit card issuers; (3) require credit card companies to report how much money they are giving to schools and alumni associations through these agreements, and what they receive from the universities in exchange; and, (4) call upon the Government Accountability Office to study the extent of these deals and their impact on student credit card debt.

The growing reliance of college students on credit cards, and the staggering credit card debt that many students accumulate by the time they graduate, underscores the need for this amendment.

According to a report released earlier this year by Sallie Mae: 84 percent of all undergraduates have at least one credit card; the average student has more than four credit cards; 9 out of 10 college students use credit cards for direct educational expenses, and 30 percent charge some tuition to their cards; the average balance for these students is \$3,173—and 82 percent of college students carry a balance each month which requires them to pay finance charges. Nearly one in five college seniors hold \$7,000 or more in credit card debt.

A study by U.S. Public Interest Research Group found that college students' credit card balances have soared 134 percent in the past 10 years.

The study also found that 76 percent of college students reported stopping at a table on or near campus advertising credit cards, and that nearly a third of students were offered a free gift in exchange for signing up.

Credit card companies lure cash-strapped students with all kinds of offers. Free food. T-shirts—the most common inducement. Frisbees. Candy. Even iPods. All for filling out a credit card application.

More than a dozen States currently restrict credit card marketing on college campuses.

In California, credit-card marketers can't lure students with free gifts; in Oklahoma, colleges can no longer sell student information for credit-card marketing purposes; and, in Texas, on-campus credit-card marketing may only occur on limited days in certain locations.

With credit card companies aiming their marketing more and more at students, we are seeing colleges and universities increasingly entering partnership agreements with these companies.

These agreements produce millions in revenue for colleges and universities, while banks get exclusive marketing access and student contact information.

As State funding shrinks for public universities, such deals grow.

We don't know much about the agreements between credit card companies and universities. But we do know that schools often receive large cash payments in exchange for providing students' personal information, including permanent addresses, e-mail addresses and phone numbers.

This enables companies to target students with precision.

Some contracts even pay universities if students have a balance on the card after 12 months, which suggests some universities stand to profit from the debt carried by their students.

The sheer scale of these contracts is astounding: Michigan State has an \$8.4 million contract with Bank of America; and, the University of Tennessee has a \$10 million contract with Chase.

Bank of America has agreements with nearly 700 colleges and alumni associations.

Virtually every major university boasts a multimillion-dollar affinity relationship with a credit-card company.

It is vital that schools make these agreements public.

Colleges should not encourage their students to sign up for products with high interest rates and fees that could get them bogged down in debt.

These arrangements can get students, who are just starting out, into deep trouble that can stay with them for decades.

This is shameful.

The underlying bill provides much-needed safeguards for young consumers, who too often do not have the financial knowledge and experience to manage their credit wisely.

I commend Chairman DODD and Ranking Member SHELBY for their leadership in crafting this well-balanced legislation.

Under this bill, issuers are required to obtain a cosigner or income verification for anyone under age 21 that applies for a credit card.

And, prescreened offers of credit to young consumers under age 21 will be limited.

Issuers also will not be allowed to increase the credit limit on accounts where a cosigner—such as a parent or guardian—is liable unless the cosigner authorizes the increase.

These provisions will play an important role in protecting college students, and all young consumers, from deceptive practices.

Our amendment will enhance these protections.

Developing good credit is essential, and it is difficult to develop good credit without holding credit cards.

When used responsibly, credit cards are convenient, and provide purchasing power that otherwise may not be available.

But many students begin using credit cards with highly unfavorable terms, and end up ruining their credit.

Shining a light on the agreements between universities and credit card issuers not only makes good sense. It may also act as a deterrent to deals with highly unfavorable terms for students.

Parents, students and the public should be aware of what kind of deals are in place and why they exist.

Also, this amendment will address the incentive of the free gift for signing up for a credit card. Too often, students sign up for credit cards to receive a free gift, and then have difficulty canceling the card, or may face hidden fees and charges.

I urge my colleagues to join us in putting in place these commonsense restrictions to protect college students across this Nation.

Mr. President, I would like to say a word about the minimum payment disclosure provisions in this bill.

When we considered the Bankruptcy Abuse Prevention and Consumer Protection Act in 2005, we said that our goal was to balance fairness, and responsibility. I agreed with this goal, but in the end, I voted against the bill because I did not believe it achieved that balance.

Since that time, I have continued to say that we need to do more to protect Americans from abusive credit practices and to ensure that consumers have the information they need to make good, informed financial decisions.

In every Congress since 2005, I have introduced a bill to require credit card companies to disclose what the real financial effects are when a consumer makes only the minimum monthly payment on her credit card balance each month.

I am very pleased that Senators DODD and SHELBY have included similar provisions in the credit card bill that we are considering today.

The bill requires that all credit card statements include a general warning about the effects of making minimum payments, personalized information showing a cardholder exactly how much it will cost and how long it will take to pay off their balance if they make only the minimum payment each month, and a phone number that consumers can call to get a reliable credit counseling referral.

I am confident that these warnings will make a significant difference for consumers.

I think we are all familiar with minimum monthly payments—this is the amount listed at the top of your credit card statement that you have to pay each month to avoid a fee.

What people are less familiar with though, is the effect of these minimum payments.

Let me give you an example. In November 2008, according to USA Today, the average American had \$10,678 in credit card debt.

Now let's take a family holding that amount of debt at this week's average interest rate of 10.78 percent. If that family consumer made only a 2 percent minimum payment on their bill each month, it would take them over 28 years and a total of \$19,144 to pay that card off. And that is assuming they didn't ever charge another penny to the card—no cash advances, no gas purchases, no trips to the mall.

In the end, the consumer would have paid \$8,466 in interest on slightly over \$10,000 in debt.

And 10.78 percent is a relatively low rate for many Americans. Interest rates around 20 percent are not uncommon, and penalty interest rates can reach as high as 32 percent.

Consumers need to know how these amounts add up.

Let me tell you one more troubling thing about minimum payments. In December, the Economist reported on a study done on these requirements.

In the study, a psychologist at a British university gave 413 people fake credit card bills. All of the bills said the person owed about \$650 total, but half of them listed a minimum payment of around \$8. The other half made no mention at all of a minimum payment.

What the study found was that when the minimum amount was listed, people were inclined to pay less of their total bill. In fact, among people who chose not to pay their full balance, people paid 43 percent less when they saw a minimum payment amount on their bill.

Behavioral economists describe this as a "nudge": By showing the minimum amount, the statement "nudged" the consumer to pay less than he or she would have otherwise.

Now obviously, this is good for the credit card company—the consumer ends up paying less each month but more in interest over time, and that's how the credit card companies make their profits.

But this is terrible for consumers, who can end up underwater, with huge balances owed, and not understand how they got there.

People need to know the effects of making minimum monthly payments, and this bill will finally require credit card companies to show them.

I believe the disclosure requirements in the bill will go a long way toward helping consumers make good financial decisions and helping them to avoid ending up in bankruptcy. So I want to commend my colleagues, Senator DODD and Senator SHELBY, for their hard work on the bill before us today. These warnings have been a long time in coming, and I will be very pleased to see them enacted into law.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that no further amendments be in order, except a managers' amendment, which has been cleared by the managers and leaders, and that at 10 a.m. Tuesday, May 19, the Senate resume consideration of H.R. 627, and proceed to vote on the motion to invoke cloture on the Dodd-Shelby substitute amendment No. 1058; that if cloture is invoked on the substitute amendment, then the Senate proceed to consider any pending germane amendments; that upon disposition of those amendments, all postcloture time be yielded back; the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that the cloture motion with respect to H.R. 627 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to S. 386, the Fraud Enforcement and Recovery Act.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 386) entitled "An Act to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes", do pass with amendments.

Mr. LEAHY. Mr. President, today, the Senate has passed the bipartisan Fraud Enforcement and Recovery Act of 2009, S.386. This bill will soon be sent to the President to be signed into law. The House passed this bill overwhelming just last week. This bill is a major step toward holding accountable those who have caused so much damage to our economy. It will also help protect our economic recovery efforts from the scourge of fraud.

Our bill will strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have so severely undermined our economy and hurt so many hard-working people in this country. These frauds have robbed people of their savings, their retirement accounts, their college funds for their children, and their equity and have cost too many people their homes. The bill will help provide the resources and legal tools needed to police and deter fraud and to protect taxpayer-funded

economic recovery efforts now being implemented.

I want to once again commend Senator GRASSLEY, our lead cosponsor, for his leadership at every stage in this process. He helped to write this legislation and to manage it on the Senate floor, where it ultimately passed 92 to 4. He also worked tirelessly to make important and difficult compromises with Senate and House leaders, which was crucial to crafting a consensus a bill that could pass both Houses. He has once again proven his dedication to protecting taxpayer funds by deterring, investigating, and prosecuting fraud.

I thank Majority Leader HOYER and the House leadership, as well as Chairman CONYERS, Ranking Member SMITH and Congressmen BERMAN and SCOTT on the House Judiciary Committee, for working with us to promptly pass this bill in the House with minimal changes and a number of helpful additions. The new ranking member of the Senate Judiciary Committee, Senator SESSIONS, was also very important and supportive in those negotiations.

I thank our many cosponsors for their steadfast support for this effort. Senators KAUFMAN and KLOBUCHAR have worked particularly hard to ensure that this important fraud enforcement bill becomes law, and I thank them for their efforts. Senator KAUFMAN has spoken and written about the need for fraud enforcement all year. We have been joined by a growing bipartisan group of cosponsors that now stands at 28. And I thank our majority leader and our underappreciated cloakroom and floor staff for all that they have done on this bill.

Mortgage fraud has reached near epidemic levels in this country. Reports of mortgage fraud are up 682 percent over the past 5 years, and more than 2800 percent in the past decade. And massive, new corporate frauds, like the \$65 billion Ponzi scheme perpetrated by Bernard Madoff, are being uncovered as the economy has turned worse, exposing many investors to massive losses. We can now finally take action to better protect the victims of these frauds. These victims include homeowners who have been fleeced by unscrupulous mortgage brokers who promise to help them, only to leave them unable to keep their homes and in even further debt than before. They include retirees who have lost their life savings in stock scams and Ponzi schemes, which have come to light as the markets have fallen and corporations have collapsed. They also include American taxpayers who have invested billions of dollars to restore our economy, and who expect us to protect that investment and make sure those funds are not exploited by fraud.

This legislation will immediately give Federal law enforcement agencies the tools and resources they need to combat fraud effectively. In the last 3 years, the number of criminal mortgage fraud investigations opened by the Federal Bureau of Investigation,

FBI, has more than doubled, and the FBI anticipates that number may double yet again. Despite this increase, the FBI currently has fewer than 250 special agents nationwide assigned to financial fraud cases, which is only a quarter of the number the Bureau had more than a decade ago at the time of the savings and loan crisis. At the current levels, the FBI cannot even begin to investigate the more than 5000 mortgage fraud allegations referred by the Treasury Department each month.

In the late 1980s and early 1990s, Congress responded to the collapse of the federally insured savings and loan industry by passing legislation similar to the bill we consider today, to hire prosecutors and agents. While the current financial crisis dwarfs in scale to the savings and loan collapse, we are poised to once again take decisive action.

At its core, the Fraud Enforcement and Recovery Act authorizes the resources necessary for the Justice Department, the FBI, and other investigative agencies to respond to this crisis. In total, the bill authorizes \$245 million a year over the next 2 years to hire more than 300 Federal agents, more than 200 prosecutors, and another 200 forensic analysts and support staff to rebuild our Nation's "white collar" fraud enforcement efforts. While the number of fraud cases is now skyrocketing, we need to remember that resources were shifted away from fraud investigations after 9/11. Today, the ranks of fraud investigators and prosecutors are drastically understocked, and thousands of fraud allegations are going unexamined each month. We need to restore our capacity to fight fraud in these hard economic times, and this bill will do that.

Fraud enforcement is an excellent investment for the American taxpayer. According to recent data provided by the Justice Department, the government recovers more than \$20 for every dollar spent on criminal fraud litigation. Strengthening criminal and civil fraud enforcement is a sound investment, and this legislation will not only pay for itself, but will bring in money for the Federal Government.

In addition, the Fraud Enforcement and Recovery Act makes a number of straightforward, important improvements to fraud and money laundering statutes to strengthen prosecutors' ability to combat this growing wave of fraud. It also strengthens one of the most potent civil tools we have for rooting out fraud in government—the False Claims Act. The Federal Government has recovered more than \$22 billion using the False Claims Act since it was modernized through the work of Senator GRASSLEY in 1986, but this bill will make the statute still more effective. In fact, the amendments the House made to the bill, after extensive input from Senator GRASSLEY and Congressman BERMAN, strengthen the False Claims Act further still.

The Fraud Enforcement and Recovery Act has broad bipartisan support,

as well as the strong backing of the Justice Department and the Obama administration. As explained in the Statement of Administration policy:

The Administration strongly supports enactment of S. 386. Its provisions would provide Federal investigators and prosecutors with significant new criminal and civil tools and resources that would assist in holding accountable those who have committed financial fraud.

Strengthening fraud enforcement is a key priority for President Obama. During the campaign, President Obama promised to "crack down on mortgage fraud professionals found guilty of fraud by increasing enforcement and creating new criminal penalties." And the President made good on this promise in his budget to Congress by calling for additional FBI agents "to investigate mortgage fraud and white collar crime," as well as hiring more Federal prosecutors and civil attorneys "to protect investors, the market, and the Federal Government's investment of resources in the financial crisis, and the American public." The initial Senate-passed recovery package included additional money for the FBI for this purpose, but it was cut during the negotiations that led to its passage. This bill, the bipartisan Fraud Enforcement and Recovery Act, is our chance to authorize the necessary additional resources to detect, fight and deter fraud that robs the American people and American taxpayers of their funds. Strong support from the President and the Justice Department has been integral to making progress on this important bill.

This is and has been bipartisan legislation. Our cosponsors and our supporters in both Houses of Congress come from across the political spectrum—Democrats, Republicans, and Independents. What we share is a commitment to fight fraud and the horrible costs it is imposing on hard-working Americans. I believe that our efforts are supported by most Americans. No one should want to see taxpayer money intended to fund economic recovery efforts diverted by fraud. No one should want to see those who engaged in mortgage fraud escape accountability. Law enforcement agencies desperately need the resources and tools in this legislation.

During these first months of the year, the Judiciary Committee has concentrated on what we can do legislatively to assist in the economic recovery. Already we have considered and reported this fraud enforcement bill, the patent reform bill, and worked to ensure that law enforcement assistance was included in the economic recovery legislation.

The recovery efforts are generating signs of economic progress. That is good. That is necessary. But that is not enough. We need to make sure that we are spending our public resources wisely and that they are not being dissipated by fraud. We need to ensure that those responsible for the down-

turn through fraudulent acts in financial markets and the housing market are held to account. That is why the Fraud Enforcement and Recovery Act is so needed.

The bill has also received the support of the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the National Association of Assistant United States Attorneys, the Association of Certified Tax Examiners, and Taxpayers Against Fraud. It was strongly endorsed by an editorial in *The New York Times* on April 18, 2009.

I thank Senators for joining with us to take decisive action to protect American families and our economy from fraud.

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment with the amendment which is at the desk; and that the motion to reconsider be laid upon the table; further, that the Senate then concur in the title amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1128) was agreed to, as follows:

(Purpose: To modify the provision relating to the issuance of subpoenas)

On 31, line 13, after "the Commission" insert "including an affirmative vote of at least one member appointed under subparagraph (C) or (D) of subsection (b)(1)".

The title was amended so as to read:

"An Act to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes."

#### WEAPONS ACQUISITION SYSTEM REFORM THROUGH ENHANCING TECHNICAL KNOWLEDGE AND OVERSIGHT ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on S. 454.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House insist upon its amendment to the bill (S. 454) entitled "An Act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees, and that the Senate Armed Services Committee be appointed as conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr.

LIEBERMAN, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. BAYH, Mr. WEBB, Mrs. MCCASKILL, Mr. UDALL of Colorado, Mrs. HAGAN, Mr. BEGICH, Mr. BURRIS, Mr. MCCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. CHAMBLISS, Mr. GRAHAM, Mr. THUNE, Mr. MARTINEZ, Mr. WICKER, Mr. BURR, Mr. VITTER, and Ms. COLLINS conferees on the part of the Senate.

#### ORDER OF BUSINESS

Mr. REID. Mr. President, there will be no votes until Tuesday morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

Mr. DODD. Mr. President, before the leaders leave the floor, I thank the majority leader and the Republican leader for their tremendous help in putting this agreement together. I look forward to a favorable vote on Tuesday. I wanted them to know how much I and the consumers in this country appreciate immensely the work of the leaders. I thank, particularly, the majority leader, HARRY REID, for his involvement to make it possible for us to get to this moment. I also include Senator SHELBY and others.

I hoped to be able to complete the bill today. Obviously, that didn't happen. We have reached a framework by which we can vote on Tuesday. There will be a managers' amendment, and we hope to be able to accommodate this agreement in that package. It doesn't suggest that every amendment will be agreed to. Where we can, we will try to do that.

This is a strong bill. I thank the members of the Banking Committee—both Democrats and Republicans—who worked on it. I am grateful to Senator SHELBY and his staff for bringing us to this moment in the hopes that on Tuesday we will have the final conclusion of this effort.

I thank the other body, as well, particularly Chairman BARNEY FRANK, from Massachusetts, for his leadership. He has done a masterful job in the other body in bringing Democrats and Republicans together with an overwhelming vote in that Chamber in support of credit card reform. We will talk over the weekend, as we usually do, to see if we cannot resolve any outstanding issues that will allow this bill to quickly arrive on the President's desk. The President said he wants it before Memorial Day. I think we can do that. My hope is that we will complete the work on Tuesday and, by the end of next week, maybe we can send the bill to the President for his signature.

I cannot think of a better message to the American people. I say that while my colleagues and the President would like a bill, the people we represent need a bill to provide economic relief for them. That was the design of this legislation—to provide needed economic relief for millions of Americans, who have watched rates and fees go through the ceiling.

This bill is not going to solve every economic problem. For the first time that I know of in the history of the Congress, despite these cards being available for half a century and more, in some cases, we are taking a step to reform an industry that, frankly, has gotten out of control when it comes to fees and rates, as we have witnessed with 70 million accounts having interest rates raised in the last couple of years, and one out of every four families being adversely affected.

Every member of the Chamber can tell an anecdote about constituents who have faced difficulties with credit card fees and interest rate hikes. I think we are all pleased that we are finally doing something in a meaningful way on this. It is not the end of the discussion.

There are a lot of other aspects of the industry that need reform as well. My colleagues are anxious to get to those, including the interchange issue, which retailers have talked to me about for years. We can try to provide relief for them. We don't provide real relief in this bill, except a study that Senators CORKER, DURBIN, and others, including myself, want to be done to get answers on how to reform the interchange fees issue. I hope we can get answers to that and talk about a legislative fix in that area as well. This bill avoids that question, not because we disagree with reforming the interchange fee but we felt it was more than we could take on with this bill.

This bill only came out of the Banking Committee with a 1-vote margin, 12 to 11. It is a very delicate balance. We needed to be careful not to tilt this legislation to such a degree that we would have lost the opportunity to provide any reform at all. We are not potentates here; we have to work with each other. We have done that in this case and produced a very fine piece of legislation.

I hope my colleagues will lend their support to this legislation when we have the final consideration of it on Tuesday.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate go into a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING THE NATION'S PUBLIC SERVANTS

Mr. AKAKA. Mr. President, I rise today to commemorate this Nation's many dedicated public servants.

As we confront the global outbreak of the 2009 influenza H1N1 virus, public servants are on the front lines in a coordinated Federal, State, and local government response, working to provide the public with accurate, real time information to reduce the possibility of further infection. At our borders and ports, Federal employees are monitoring incoming visitors for signs of illness. State and local health officials are monitoring, testing, and treating people with suspected cases of the flu virus.

This effort is one of the many contributions hardworking, talented government employees make to improve our lives every day. They deliver our mail, care for our veterans, guard our prisons, protect our borders and communities, defend our country, and educate our children. They influence the lives of people around the world as diplomats, promoting peace, prosperity, and democracy in conflicted regions, and providing critical assistance to developing and impoverished communities.

In honor of these and many other unsung activities of public servants, I offered an annual resolution, S. Res. 87, which unanimously passed the Senate on April 21, 2009, to recognize the dedicated men and women who serve our country, honor those brave heroes who died in service to their country, and encourage all Americans to consider a career in public service.

Last week was Public Service Recognition Week. We set aside the first full week of May to recognize and honor the accomplishments of Federal, State, and local government employees. Across the country, hundreds of events took place in appreciation of the millions of public servants who serve as the quiet bedrock of our Nation's workforce. This year's celebration included a 4-day exhibition on the National Mall where more than 100 civilian and military Federal agencies showcased their programs and initiatives to the public.

In his 1961 inaugural address, President John F. Kennedy called on all Americans to make a commitment to public service. His call inspired a generation to serve. President Barack Obama again called for action in his inaugural address. Public interest in Federal Government jobs is increasing, but we must ensure that Americans who embrace a public service career are not deterred by the lengthy and complicated hiring process. Last week, I held a hearing on how to improve Federal job recruitment so that we can harness the renewed spirit of service that President Obama has inspired. There is no better time to rise to the occasion and serve.

As a former teacher and a life-long public servant, I am proud to highlight

the importance of Public Service Recognition Week. This is a critical time for our Nation, with many domestic and global challenges. Although we have designated a week to honor government employees, I rise today to stress the importance of remembering the invaluable service of public servants throughout the year. Our way of life—and the strength of our country would not exist without the work of public employees. And so to all the dedicated men and women currently serving our Nation, mahalo nui loa—thank you very much—for all that you do.

Mr. President, I am including Director John Berry's letter of support for Public Service Recognition Week with my statement and ask unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF PERSONNEL MANAGEMENT,  
Washington, DC, May 5, 2009.

Hon. DANIEL K. AKAKA,  
Chairman, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to thank you for your sponsorship of S. Res. 87, a resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009, and throughout the year.

As you know, Public Service Recognition Week, celebrated the first Monday through Sunday in May since 1985, is a time set aside each year to honor the men and women who serve America as Federal, state and local government employees. Throughout the Nation and around the world, public employees use the week to educate citizens about the many ways in which government serves the people and how government services make life better for all of us.

As the Director of the Office of Personnel Management (OPM), Public Service Recognition Week is the perfect time to spread President Obama's call to public service and to recognize public employees. I am committed to making the Federal government a better place to work by speeding up the hiring process, increasing opportunities for veterans, and implementing programs that help employees balance work and family life.

Thank you for your continued leadership in recognizing the hard work of our public servants during Public Service Recognition Week and I look forward to working with you to make the federal government a better place to work.

Sincerely,

JOHN BERRY,  
Director.

#### REMEMBERING REVEREND ROBERT CORNELL

Mr. FEINGOLD. Mr. President, today I pay tribute to the life of Rev. Robert Cornell, a great Wisconsin public servant and teacher. For most of his life, Reverend Cornell called northeast Wisconsin his home—as a student at St. Norbert Abbey, a Congressman, and a professor of history and government at St. Norbert College.

Reverend Cornell was only the second Catholic priest to be elected to Congress when he represented Wisconsin's Eighth Congressional District from 1975 to 1979. Just as he did all his life, Reverend Cornell came to Washington to fight for education and social justice for the Wisconsinites he represented.

But his greatest accomplishments may have come in the halls of St. Norbert College as he used history to help guide young Wisconsinites to new levels of academic achievement. During his decades in the classroom, Reverend Cornell would bring history to life like no other. He brought out the best in his students with captivating lectures that displayed his tremendous knowledge, experience, and wit. His impact will certainly be felt for years to come through the countless students he taught and mentored.

Reverend Cornell stands out as a towering figure in the history of northeast Wisconsin. His influence on education and public service has left a lasting mark on our State.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO CHUCK MACK

• Mrs. BOXER. Mr. President, I am pleased and honored to pay tribute to Chuck Mack for his many years of service to the International Brotherhood of Teamsters.

After 43 years of dedicated service, Mr. Mack is stepping down from his positions as secretary-treasurer for the International Brotherhood of Teamsters Local 70, and president of the Teamsters Joint Council 7. While Mr. Mack may be leaving his current leadership positions within the Teamsters, he is by no means retiring. Instead, he is heeding the call of the Western Conference of Teamsters Pension Trust, where he will now serve as the co-chair of the organization.

During his four-plus decades of service to the Teamsters, Mr. Mack has worked tirelessly to help negotiate first-class rights for bay area workers and their families. With a reputation for integrity and hard work, Mr. Mack has provided the Teamsters with unparalleled leadership in major labor disputes in northern California throughout his tenure. I particularly commend Mr. Mack for his efforts in advancing environmental justice issues for port communities throughout the San Francisco bay area.

As he transitions to his new position as cochair of the Western Conference of Teamsters Pension Trust, I applaud Mr. Mack's continued involvement with the Teamsters Union. Unions provide valuable representation to American workers and their families, and have worked to establish many of the rights and privileges that we now take for granted—rights and privileges that have helped millions of workers achieve the American dream.

After over four decades of service to the International Brotherhood of

Teamsters, I remain in admiration of Chuck's strong sense of civic duty, his unparalleled service to the labor movement, and his tireless advocacy for workers' rights at the local, State, and national levels. I wish him many more years of continued community involvement and leadership.●

##### TRIBUTE TO C. BRENT DEVORE

• Mr. BROWN. Mr. President, today I honor the career of Dr. C. Brent DeVore, the dean of higher education presidents in central Ohio. For 25 years, Dr. DeVore has served Otterbein College, its students, and the Westerville, OH, community. He retires at the end of this academic year.

A son of Zanesville, OH, who earned degrees from Ohio University and Kent State University, Dr. DeVore has dedicated his professional life to improving higher education for America's young people.

Dr. DeVore became president of Otterbein College in 1984. He helped develop the institution from a small, liberal arts college to a nationally ranked, comprehensive college. Dr. DeVore put Otterbein on stable financial footing, increasing the school's endowment by fifteenfold. He oversaw a transformation of the campus infrastructure, including the construction of new academic buildings, residence halls, athletic facilities, and an expansion of the library.

More importantly, Dr. DeVore helped transform the human capital of the college. The graduate education program was added in 1989, the graduate nursing program in 1993, and the MBA program in 1997. The number of faculty holding advanced degrees nearly doubled. Student diversity increased, enrollment doubled, retention rates soared, and the quality of incoming students skyrocketed.

Throughout Dr. DeVore's career, he has worked to develop innovative and comprehensive programs to encourage young people to engage in community and volunteer service and oversaw the creation of Otterbein's Center for Community Engagement. In 2007, Otterbein was one of only three schools across the country to receive the Presidential Award for General Community Service in the President's Higher Education Community Service Honor Roll.

While, Dr. DeVore's leadership at Otterbein will be missed, his legacy will remain for generations. Dr. DeVore has made Otterbein College better, he has made Ohio better, and he has made our Nation better. I wish him well and hope that his service to Ohio will continue in the next phase of his outstanding career.●

##### OHIO'S SMALL BUSINESS PERSON OF THE YEAR

• Mr. BROWN. Mr. President, today I commemorate the work of Carla Eng, president of Abstract Displays Incorporated, who has been named the Ohio

Small Business Person of the Year for 2009 by the U.S. Small Business Administration.

The award recognizes Ms. Eng's dedication to success, her passion for her work, and her positive attitude. She is among 53 top small business persons who will be honored at the Small Business Administration's National Small Business Week events. Ms. Eng's company is a premier designer and producer of dimensional solutions for trade show exhibits, events, environments and for all face-to-face sales, marketing, and corporate needs.

I commemorate the work of Carla Eng and congratulate her for receiving this prestigious award. She is a role model for success and an inspiration to us all. I hope you will join me in wishing Carla the best of luck in her future endeavors.●

#### CONGRATULATING THE GEORGETOWN/SCOTT COUNTY CHAMBER OF COMMERCE

● Mr. BUNNING. Mr. President, today I congratulate the Georgetown/Scott County Chamber of Commerce, a non-profit business organization that recently celebrated its 50th anniversary.

The Georgetown/Scott County Chamber of Commerce was founded in 1959. The chamber promotes local businesses and ensures that jobs stay in the Georgetown and Scott County area. During this uncertain economic time, organizations such as the Georgetown/Scott County Chamber of Commerce strive to ensure that local businesses continue to prosper. The chamber celebrated this distinct milestone at its annual banquet on April 24, 2009, where current chamber president Christie Hockensmith expressed her optimism for the next 50 years.

Again, I congratulate the Georgetown/Scott County Chamber of Commerce on 50 years of service. I wish the chamber the best in the future and in continued support of local businesses.●

#### REMEMBERING M. ALLYN DINGEL, JR.

● Mr. CRAPO. Mr. President, today I would like to honor a fellow Idahoan who served the Idaho legislature, the Idaho, judiciary, the Episcopal Diocese of Idaho and the Idaho State Bar with honor, integrity, and good humor. M. Allyn Dingel, Jr., passed away at his home in Boise, ID, on April 23, 2009 after a courageous battle with lung cancer.

Allyn was born in Twin Falls, ID, where he played baseball and was the student body president at Twin Falls High. He attended college at the University of Idaho, and continued to organize spontaneous renditions of the Idaho Vandal fight song, whether asked to or not.

Allyn attended New York University Law School, where he was one of the top students and was a member of the NYU Law Review. Allyn worked for the

Idaho Attorney General's Office for 3 years, and then spent more than 40 years in private practice. In his spare time, he served as Chancellor for the Episcopal Diocese of Idaho, providing extensive legal services pro bono.

Allyn was a trial lawyer, and the courtroom was his stage. His methods were not always conventional. He had his own vocabulary, and a way of communicating that was sometimes humorous, but always believable. Allyn was a lawyer's lawyer. He was a fellow of the prestigious American College of Trial Lawyers. He served as Idaho's representative to the Ninth Circuit Commission, and was Idaho's delegate to the American Bar Association House of Delegates. The Idaho State Bar honored him in 2004 when he was named its Distinguished Lawyer, and in 2008 the Idaho Judiciary named a courtroom in Boise after him.

Allyn was a lobbyist for both the insurance industry and the Idaho judiciary. He was especially effective as a lobbyist because he never forgot a political story or a point of Idaho trivia. As a lobbyist, he was generous with his humor and his story-telling. Shortly before his death, the Idaho legislature honored him with Senate Concurrent Resolution No. 111, which commended him for his lifetime service to the legislative branch of the State of Idaho.

But for all of Allyn Dingel's many accomplishments, he will be remembered most for his great compassion and his ability to find the good in people. It was said that he never forgot, but he always forgave. We can imagine him at the Pearly Gates telling St. Peter some long story about Idaho politics. We just hope those in line behind him were patient as he tried to teach St. Peter the words to the Vandal fight song.

I am honored to reflect on Allyn Dingel's wonderful, exemplary life, and pleased to call him my friend. He was an individual who made the most from the opportunities that presented themselves, and Idaho is better for that. My condolences go out to his family: his beloved wife Fran, his sons and their wives, Bryan and Valencia and Mike and Lori, and his six grandchildren. ●

#### REMEMBERING SAL GUARRIELLO

● Mrs. FEINSTEIN. Mr. President, I wish to honor the life of Sal Guarriello, a decorated veteran and an incredible public servant.

Mr. Guarriello was a beloved citizen of West Hollywood, serving for 19 years on its city council and for three terms as its mayor. During his nearly two decades on the council, he was a voice for the Russian, disabled, and LGBT communities, seniors, and veterans.

Mr. Guarriello received a Purple Heart when he was wounded while serving as an Army combat medic during World War II. For the rest of his life, he strove to honor and represent the needs of his fellow veterans. In 1998, he proposed that a veterans' memorial be built in West Hollywood to honor the

sacrifices of all of America's veterans, and 5 years later his vision became reality.

Before joining the West Hollywood City Council, Mr. Guarriello worked to provide affordable housing as a member of the board of directors of the West Hollywood Community Housing Corporation and the West Hollywood Rent Stabilization Commission.

Mr. Guarriello also created the West Hollywood Children's Summer Olympics, initiated a successful anti-drunk driving campaign, and formed the Eastside Redevelopment Agency, which was instrumental in the successful negotiation of a plan to rehabilitate Santa Monica Boulevard.

Sal Guarriello will be remembered by his family, friends, and constituents as a patriot, a public servant, and an exceptional leader of the community.●

#### 50TH ANNIVERSARY OF PLEASANT VALLEY SCHOOL

● Mr. LIEBERMAN. Mr. President, I wish today to honor Pleasant Valley Elementary School in South Windsor, CT. Pleasant Valley, or "PV" as it is affectionately referred to by many in South Windsor, will be celebrating its 50th anniversary this June. To mark this momentous occasion, I feel it is fitting to reflect back on all this school has done for its students and its community.

Pleasant Valley's motto is "Pleasant Valley School, a place to learn, to grow, and to care," and many of the students, parents, and faculty that have been involved with the school would attest that it has more than succeeded in creating such an environment. For 50 years, Pleasant Valley has helped the children of South Windsor develop a love of learning and discovery while instilling in them the skills and work ethic needed to succeed in South Windsor's excellent secondary schools.

When Pleasant Valley first opened in September 1958, it taught grades one through eight. While it was tough managing a large group of kids with such large age differences, those who attended or worked at the school during this time fondly recall basketball games, spelling bees, school plays, dedicated teachers, and, of course, friendships that would last a lifetime. Eventually, Pleasant Valley would become responsible for teaching students in kindergarten up to the fifth grade, and would always remain a vibrant, innovative place of learning.

Over the years, Pleasant Valley's staff has consistently launched inspired new initiatives designed to connect with their students. In 1981, PV started the Read at Home Program, which was put together to encourage students to read on their own. The theme for the program's first year was "footsteps to reading," which allowed students to post a paper foot on the school's walls for every book they read. By the end of the year, students had

managed to cover almost the entire school, including the principal's office. In 1989, the school established the Special Friends Program—the first in South Windsor—to provide a safe setting, counseling, and friendship to at-risk students and those students experiencing sudden changes in their lives.

In the 1990–1991 school year, Nancy Mason, the school nurse, and Priscilla Spencer, the school's gym teacher, introduced an inventive project designed to teach students about both geography and physical fitness. The students were told that the school's mascot—Popcorn the Panther—was going to take a walking trip across the United States in which he would travel a mile for every mile that each student walked or ran. For the rest of the year, students were required to walk or run at least half a mile during every recess period and were encouraged to walk more. Prizes were given to the class and grade that contributed the most miles to Popcorn's journey. Throughout the year, teachers would have friends and family members who lived around the country send postcards "from Popcorn" so that students could see the fruits of their efforts and learn about various regions of the country. This successful program concluded with a large welcome home ceremony at the end of the school year, with several students joining Popcorn, played ably by an older student, for his final walk back to school.

At a time when much of our focus is understandably on improving schools that are not living up to standards, it is important to take time out to recognize those schools that have consistently provided a quality education to their students and that are constantly striving to find new ways to inspire students to reach new heights. For 50 years, Pleasant Valley School of South Windsor, CT, has been one of these schools; providing students with the ideal setting in which to develop their abilities, meet friends, and cultivate new interests. It truly is a place to learn, to grow, and to care. I congratulate all of Pleasant Valley's students, alumni, faculty, parents, and volunteers on a remarkable 50 years and look forward to seeing how they tackle the challenges of the future. Their dedication is truly an inspiration and should serve as an example to us all.●

#### REMEMBERING CAPTAIN WENDELL B. RIVERS

● Mr. NELSON of Nebraska. Mr. President, today I wish to honor Navy CAPT Wendell B. Rivers, who passed away on Saturday, May 9, 2009.

Wendell "Wendy" Rivers was born in Seward, NE, on July 6, 1928. He graduated from Seward High School in 1946, where he was senior class president, an all-conference football and basketball player, and an 880-yard track specialist. Upon graduation, Rivers enlisted in the U.S. Navy, receiving an appointment to the U.S. Naval Acad-

emy in 1948 and graduating in 1952, when he received his commission as an Ensign in the U.S. Navy. Following a brief tour on a destroyer during the Korean conflict, he entered flight training in 1953, receiving his wings in March 1954.

Over the course of his career, Captain Rivers distinguished himself in many assignments as a naval aviator, missile project officer, flight deck officer, and squadron operations officer. Subsequent assignments were in naval aviation on the west coast at San Diego, Moffett Field, Monterey, Point Mugu, and Lemoore. During the Vietnam conflict, Captain Rivers deployed on his last cruise from Alameda, CA, aboard the USS Coral Sea, as a member of Air Wing 15, Attack Squadron 155. On February 11, 1965, he flew the first of 96 combat missions over North Vietnam. Tragically, on his 96th mission, he was shot down and captured at Vinh, North Vietnam, where he was then held in captivity for 7½ years.

While a prisoner of war, POW, Captain Rivers kept his faith in God, country, and Navy, despite all the hardships facing him and his fellow POWs. His steadfastness and devotion to others was an inspiration to those fellow POWs. In fact, shortly after he was freed, as the guest of honor at a celebration of America's independence in Nebraska's Fourth of July capital city, which was also coincidentally his hometown of Seward, Captain Rivers expressed that deep down he and his fellow POWs were always convinced they would one day come home.

After the tremendous sacrifice he had already endured, Captain Rivers continued to serve the Navy until 1976. The end of his career included serving as the head of the Aircraft Survivability and Vulnerability Branch of the Naval Air Systems Command, for which VADM F.S. Petersen said, "It was through Captain Rivers' personal forethought and initiative that this important aspect of Naval Aviation came to fruition."

CAPT Wendell B. Rivers passed away in his home on May 9, 2009, at the age of 80. Over the course of his career, Captain Rivers received numerous commendations, decorations, and medals, including the Silver Star, Legion of Merit with Star, Bronze Star, Distinguished Flying Cross, Vietnam Service Medal with three Silver Stars, Navy Occupation Medal, World War II Victory Medal, China Service Medal, United Nations Service Medal, and Korean Presidential Unit Citation. These awards reflect Captain Rivers' bravery and selfless service toward the security of our great country. The life and service of individuals such as Captain Rivers represents an example of patriotism we should all strive to emulate. I join all Nebraskans in mourning the loss of Captain Rivers and offer my deepest condolences to his family.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 11:41 a.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2162. An act to designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the "Herbert A Littleton Postal Station".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 84. Concurrent resolution supporting the goals and objectives of a National Military Appreciation Month.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

The message also announced that the House insists upon its amendment to the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Messrs. SKELTON, SPRAT, ORTIZ, TAYLOR, ABERCROMBIE, REYES, SNYDER, SMITH of Washington, Ms. LORETTA SANCHEZ of California, Mr. MCINTYRE, Mrs. TAUSCHER, Messrs. BRADY of Pennsylvania, ANDREWS, Mrs. DAVIS of California, Messrs. LANGEVIN, COOPER, ELLSWORTH, SESTAK, MCHUGH, BARTLETT, MCKEON, THORNBERRY, JONES, AKIN, FORBES, MILLER of Florida, WILSON of South Carolina, CONAWAY, HUNTER, and COFFMAN of Colorado.

The message further announced that pursuant to 20 U.S.C. 4412, and the order of the House of January 6, 2009, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development: Mr. LUJÁN of New Mexico.

At 4:30 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2346. An act making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2162. An act to designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the "Herbert A Littleton Postal Station"; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 84. Concurrent resolution supporting the goals and objectives of a National Military Appreciation Month; to the Committee on the Judiciary.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2346. An act making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1606. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Calcium Lactate Pentahydrate; Exemption from the Requirement of a Tolerance" (FRL-8412-5) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1607. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Candida oleophila Strain O; Exemption from the Requirement of a Tolerance" (FRL-8412-9) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1608. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxyfenozide; Pesticide Tolerances for Emergency Exemptions" (FRL-8410-3) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1609. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General John F. Regni, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-1610. A communication from the Under Secretary of Defense (Acquisition, Tech-

nology and Logistics), transmitting, pursuant to law, a report entitled "Defense Advanced Research Projects Agency (DARPA), Strategic Plan, May 2009"; to the Committee on Armed Services.

EC-1611. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1612. A communication from the Executive Vice President and Chief Financial Officer, Federal Home Loan Bank of Chicago, transmitting, pursuant to law, the Bank's 2008 management reports; to the Committee on Banking, Housing, and Urban Affairs.

EC-1613. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the construction of a Mixed Oxide Fuel Fabrication Facility near Aiken, South Carolina; to the Committee on Energy and Natural Resources.

EC-1614. A communication from the Acting Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania Regulatory Program" ((PA-148-FOR)(Docket No. OSM-2008-0014)) received in the Office of the President of the Senate on May 6, 2009; to the Committee on Energy and Natural Resources.

EC-1615. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Texas; Final Authorization of State Hazardous Waste Management Program Revision" (FRL-8901-1) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Environment and Public Works.

EC-1616. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions to the Knox County Portion" (FRL-8903-6) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Environment and Public Works.

EC-1617. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Net Operating Loss Carryback Election Under 1211 of American Recovery and Reinvestment Tax" (Rev. Proc. 2009-26) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC-1618. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sub-Issue Letter Rulings Under Section 355" (Rev. Proc. 2009-25) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC-1619. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Date for Multiemployer Plans to Elect Relief under Sections 204 and 205 of WRERA" (Notice 2009-42) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC-1620. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the

report of a rule entitled "Revenue Procedure: United States and Area Median Gross Income Figures" (Rev. Proc. 2009-27) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC-1621. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance to Policyholders Who Surrender or Sell Their Life Insurance Contracts" (Rev. Proc. 2009-13) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC-1622. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance to Investors Who Purchase Life Insurance Contracts" (Rev. Proc. 2009-14) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Finance.

EC-1623. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates" (Notice 2009-45) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Finance.

EC-1624. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amortization and Reporting of Mortgage Insurance Premiums" (RIN1545-BH84) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Finance.

EC-1625. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests" (RIN1545-BH96; RIN1545-B156)(TD 9448) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Finance.

EC-1626. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$100,000,000 or more with the United Kingdom; to the Committee on Foreign Relations.

EC-1627. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, two reports relative to national healthcare quality; to the Committee on Health, Education, Labor, and Pensions.

EC-1628. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the Board's Congressional Justification of Budget Estimates for Fiscal Year 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-1629. A communication from the Director, Human Resources Management Office, Federal Trade Commission, transmitting, pursuant to law, a report relative to the implementation of an alternative rating and selection procedure; to the Committee on Homeland Security and Governmental Affairs.

EC-1630. A communication from the Chairman, Federal Accounting Standards Advisory Board, transmitting, pursuant to law, a report entitled "Estimating the Historical Cost of General Property, Plant, and Equipment: Amending Statements of Federal Financial Accounting Standards 6 and 23"; to

the Committee on Homeland Security and Governmental Affairs.

EC-1631. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report entitled "Annual Report on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002: Fiscal 2008 (April 2009)"; to the Committee on Homeland Security and Governmental Affairs.

EC-1632. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Inspector General's Semiannual Report for the six-month period ending March 31, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1633. A communication from the Director of Regulations Management, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Headstones and Markers" (RIN2900-AN29) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Veterans' Affairs.

EC-1634. A communication from the Director of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Presumptive Service Connection for Disease Associated with Exposure to Certain Herbicide Agents: AL Amyloidosis" (RIN2900-AN01) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Veterans' Affairs.

EC-1635. A communication from the Director of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Expansion of Enrollment in the VA Health Care System" (RIN2900-AN23) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Veterans' Affairs.

EC-1636. A communication from the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Insurance Trust Funds, transmitting, pursuant to law, the Boards' 2009 Annual Report and the 2009 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Appropriations, without amendment:

S. 1054. An original bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes (Rept. No. 111-20).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

\*Robert O. Work, of Virginia, to be Under Secretary of the Navy.

\*Raymond Edwin Mabus, Jr., of Mississippi, to be Secretary of the Navy.

\*Thomas R. Lamont, of Illinois, to be an Assistant Secretary of the Army.

\*Paul N. Stockton, of California, to be an Assistant Secretary of Defense.

\*Andrew Charles Weber, of Virginia, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

\*Charles A. Blanchard, of Arizona, to be General Counsel of the Department of the Air Force.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. LAUTENBERG)):

S. 1036. A bill to amend title 49, United States Code, to establish national purposes and goals for Federal surface transportation activities and programs and create a national surface transportation plan; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 1037. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide adequate benefits for public safety officers injured or killed in the line of duty, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. SCHUMER, Mr. KENNEDY, Mr. KOHL, Mrs. BOXER, Mr. DODD, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. FEINGOLD, Mrs. MURRAY, Mr. KERRY, Mr. NELSON of Florida, Mr. KAUFMAN, Mr. CASEY, Ms. CANTWELL, and Mr. LEVIN):

S. 1038. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. KENNEDY, Mrs. GILLIBRAND, and Mr. BAYH):

S. 1039. A bill to provide grants for the renovation, modernization or construction of law enforcement facilities; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Ms. STABENOW):

S. 1040. A bill to establish a demonstration program requiring the utilization of Value-Based Insurance Design in order to demonstrate that reducing the copayments or coinsurance charged Medicare beneficiaries for selected medications can increase adherence to prescribed medication, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 1041. A bill to amend the Oil Pollution Act of 1990 to modify the applicability of certain requirements to double hulled tankers transporting oil in bulk in Prince William Sound, Alaska; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mrs. McCASKILL):

S. 1042. A bill to prohibit the use of funds to promote the direct deposit of Veterans and Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits; to the Committee on Finance.

By Mr. GRAHAM:

S. 1043. A bill to require the United States Trade Representative to negotiate a remedy for the equitable border tax treatment on goods and services within the WTO by January 1, 2010, and for other purposes; to the Committee on Finance.

By Mr. THUNE:

S. 1044. A bill to preserve the ability of the United States to project power globally; to the Committee on Armed Services.

By Mrs. LINCOLN:

S. 1045. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for the costs of providing technical training for employees; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1046. A bill to amend the Internal Revenue Code of 1986 to extend the excise tax provisions and income tax credit for biodiesel; to the Committee on Finance.

By Mr. MENENDEZ:

S. 1047. A bill to promote Internet safety education and cybercrime prevention initiatives, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mrs. GILLIBRAND, and Mr. REED):

S. 1048. A bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. SCHUMER):

S. 1049. A bill to authorize the Secretary of Homeland Security to waive certain provisions of the pre-September 11, 2001, fire grant program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. KOHL, and Mr. LEVIN)):

S. 1050. A bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY:

S. 1051. A bill to establish the Centennial Historic District in the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Ms. COLLINS):

S. 1052. A bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI:

S. 1053. A bill to amend the National Law Enforcement Museum Act to extend the termination date; to the Committee on Energy and Natural Resources.

By Mr. INOUE:

S. 1054. An original bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mrs. BOXER (for herself, Mr. INOUE, Mr. AKAKA, and Mrs. FEINSTEIN):

S. 1055. A bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. VOINOVICH (for himself, Mr. LIEBERMAN, and Mr. ISAKSON):

S. 1056. A bill to establish a commission to develop legislation designed to reform tax policy and entitlement benefit programs and ensure a sound fiscal future for the United States, and for other purposes; to the Committee on the Budget.

By Mr. TESTER (for himself, Mr. WICKER, Mr. CARDIN, and Mr. BROWN):

S. 1057. A bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. UDALL of Colorado (for himself, Mr. BENNET, Mr. BOND, Mr. CHAMBLISS, Mr. CRAPO, Mr. TESTER, and Mr. VITTER):

S. 1058. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level, and for other purposes; to the Committee on Finance.

By Mr. DEMINT:

S.J. Res. 16. A joint resolution proposing an amendment to the Constitution of the United States relative to parental rights; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MARTINEZ (for himself, Mr. MENENDEZ, Mr. GRAHAM, Mr. ENSIGN, Mr. NELSON of Florida, Mr. VOINOVICH, and Mr. LUGAR):

S. Res. 149. A resolution expressing solidarity with the writers, journalists, and librarians of Cuba on World Press Freedom Day and calling for the immediate release of citizens of Cuba imprisoned for exercising rights associated with freedom of the press; considered and agreed to.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 150. A resolution commemorating and celebrating the lives of Officer Kristine Marie Fairbanks, Deputy Anne Marie Jackson, and Sergeant Nelson Kai Ng who gave their lives in the service of the people of Washington State in 2008; considered and agreed to.

By Mr. BUNNING (for himself, Mr. ALEXANDER, Ms. MURKOWSKI, Mr. BINGAMAN, Mr. UDALL of Colorado, Mr. KENNEDY, Mr. VOINOVICH, Mr. REID, Mr. CORKER, Mr. GRASSLEY, Mrs. MURRAY, and Mr. MCCONNELL):

S. Res. 151. A resolution designates a national day of remembrances on October 30, 2009, for nuclear weapons program workers; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 254

At the request of Mrs. LINCOLN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 476

At the request of Mrs. BOXER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 476, a bill to amend title 10,

United States Code, to reduce the minimum distance of travel necessary for reimbursement of covered beneficiaries of the military health care system for travel for specialty health care.

S. 484

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 511

At the request of Mr. TESTER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 511, a bill to amend part B of title XVIII of the Social Security Act to provide for an exemption of pharmacies and pharmacists from certain Medicare accreditation requirements in the same manner as such exemption applies to certain professionals.

S. 529

At the request of Mr. LIEBERMAN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 529, a bill to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of countries within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations.

S. 535

At the request of Mr. SESSIONS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 546

At the request of Mr. REID, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 611

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 611, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 693

At the request of Mr. HARKIN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 693, a bill to amend the Public Health Service Act to provide grants for the training of graduate medical residents in preventive medicine.

S. 733

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 733, a bill to ensure the continued and future availability of life saving trauma health care in the United States and to prevent further trauma center closures and downgrades by assisting trauma centers with uncompensated care costs, core mission services, and emergency needs.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 751

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 751, a bill to establish a revenue source for fair elections financing of Senate campaigns by providing an excise tax on amounts paid pursuant to contracts with the United States Government.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Connecticut

(Mr. DODD) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 775

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 775, a bill to amend title 10, United States Code, to authorize the availability of appropriated funds for international partnership contact activities conducted by the National Guard, and for other purposes.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 908

At the request of Mr. BAYH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 938

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 938, a bill to require the President to call a White House Conference on Children and Youth in 2010.

S. 943

At the request of Mr. THUNE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 943, a bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes.

S. 950

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 950, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 957

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 957, a bill to amend the Public Health Service Act to ensure that victims of public health emer-

gencies have meaningful and immediate access to medically necessary health care services.

S. 973

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 973, a bill to amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

S. 979

At the request of Mr. DURBIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 1012

At the request of Mr. ROCKEFELLER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Florida (Mr. NELSON) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Missouri (Mrs. McCASKILL) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1027

At the request of Ms. STABENOW, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1027, a bill to amend title VII of the Tariff Act of 1930 to clarify that fundamental exchange-rate misalignment by any foreign nation is actionable under United States countervailing and antidumping duty laws, and for other purposes.

S.J. RES. 15

At the request of Mr. VITTER, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S.J. Res. 15, a joint resolu-

tion proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

AMENDMENT NO. 1058

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of amendment No. 1058 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1059

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1059 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1060

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1060 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1079

At the request of Ms. LANDRIEU, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 1079 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1091

At the request of Mr. CARDIN, the names of the Senator from Nebraska (Mr. JOHANNES) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 1091 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1095

At the request of Mr. LEVIN, the name of the Senator from Missouri (Mrs. McCASKILL) was added as a cosponsor of amendment No. 1095 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1096

At the request of Mr. LEVIN, the name of the Senator from Missouri

(Mrs. McCASKILL) was added as a cosponsor of amendment No. 1096 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1099

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 1099 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1106

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 1106 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1107

At the request of Ms. COLLINS, the names of the Senator from Arizona (Mr. KYL) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 1107 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. SCHUMER, Mr. KENNEDY, Mr. KOHL, Mrs. BOXER, Mr. DODD, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. FEINGOLD, Mrs. MURRAY, Mr. KERRY, Mr. NELSON, of Florida, Mr. KAUFMAN, Mr. CASEY, Ms. CANTWELL, and Mr. LEVIN):

S. 1038. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I believe it is fair to say that there is a farm emergency in this country. Some of it is caused by drought, including out West where California has had, for 3 years, a very serious drought. But most of it is caused by the absence of farm labor—labor to help plant, prune, and harvest.

Many of us have listened to farm bureaus throughout the country, spoken with farmers who are losing land, fallowing land, and leasing land abroad. I think the time has come to do something about it.

Today, with 16 cosponsors, I am introducing an agricultural worker bill

known as AgJOBS. This bill is cosponsored by Senators LEAHY, SCHUMER, KENNEDY, KOHL, BOXER, DODD, LIEBERMAN, BINGAMAN, FEINGOLD, MURRAY, KERRY, BILL NELSON, KAUFMAN, CASEY, Cantwell, and Levin. It would provide farmers with the stable, legal workforce they deserve by reforming the broken H-2A seasonal worker program and offering a pathway to citizenship for hard-working, law-abiding immigrants already employed or who have been employed on American farms.

This bill is supported by more than 200 agricultural coalition and immigration reform groups throughout the Nation.

Since I last came to the floor to talk about a solution to this crisis, it has only grown. The bill is necessary, and I believe Congress must act now to save America's agriculture industry.

Today across the United States, there are not enough agricultural workers to do the pruning, picking, packing, and harvesting of our country's crops. With an inadequate supply of workers, farmers from Maine to California, from Washington State to Georgia, have watched their produce rot in fields, and have been forced to fallow close to half a million acres of land, and billions of dollars are being drained out of our economy as a result.

Farmers are downsizing their operations. Many are buying or leasing land in Mexico. Others are going out of business. Quite clearly, the labor situation facing the American farmer is an emergency.

So some ask: Why don't American farmers hire Americans to do their work? The unemployment rate is high. People are looking for jobs. So why don't they hire Americans?

The fact is, they have tried and tried and tried. But there are very few Americans who are willing to take the job in a hot field, doing backbreaking labor, in temperatures that often exceed 100 degrees. That is a fact.

The other fact is that immigrant workers are the backbone of America's agricultural industry—a huge industry and a proud industry, which is now dying due to the lack of steady labor supply.

Farmers are departing the country in order to stay in business, leaving devastated farm communities behind. In California, in the Great Central Valley, farmers who once tended "America's breadbasket" are now standing in bread lines, with unemployment rates in their communities that are as high as 45 percent. Topsoil from fallowed land turning into dust now blows up in sandstorms and has caused periodic shutdowns of Interstate 5, the State's main north-south freeway.

As a result of Congress's inaction, between 2007 and 2008—1 year—1.56 million acres of farmland, once rich with crops, are now dormant. That is 1.5 million acres dormant in a year. In California alone, in the past 5 years, that amount—1.5 million acres—of production has been lost.

American farmers have moved at least 84,155 acres of production to Mexico. This is what we know of: Over 84,000 acres of farm production now in Mexico. This has resulted in the growth of farm labor jobs in Mexico; namely, 22,285 jobs to cultivate crops that vary in diversity from avocados to green onions to watermelons.

This shortage of workers is devastating American agriculture, and we need to wake up and understand what is happening. In the next 1 to 2 years, the United States stands to lose \$5 billion to \$9 billion in agricultural sales to foreign competition if Congress does not act to provide a workforce for the American farming community.

California has already lost almost \$1 billion from 2005 to 2006. It is estimated we will lose between \$1.7 and \$3.1 billion in the next year. The California farm industry—the largest in America—was almost a \$40 billion-a-year industry. It is deteriorating every year.

We are witnessing nothing less than the slow vanishing of American agriculture.

Ayron Moiola, the executive director of the Imperial Valley Vegetable Growers Association, predicts that California's asparagus crops will disappear completely in the Imperial Valley if their demand for specialized asparagus planters and harvesters is not met.

Colorado farmers have estimated their State's fruit and vegetable industry will disappear completely in the next 5 to 10 years without some program to provide a sustainable workforce.

As of February 2008, 35 to 45 New Hampshire farm operations have been at risk of going out of business or being forced to severely cut back operations due to labor shortages.

This reduction in farm production would result in an estimated loss of 22,000 acres of farmland and \$58 million of agricultural production for New Hampshire alone. In addition, over 600 full-time farm jobs and 4,300 jobs in agriculture-related businesses could be in jeopardy.

I say to the Presiding Officer, I hear this from your apple growers in New York, and I hear it from the dairy industry throughout America.

The situation is dire from coast to coast, and urgent action is required to halt these trends. I do not think we can afford to lose our entire agricultural industry because this has always been a central and sustainable part of our national economy. Our food is clean; there are strong pesticide controls in this country. I think most of us believe we would much prefer to buy American produce than foreign produce. Yet we may not have that opportunity.

When farmers suffer, there is a ripple effect felt throughout the economy: in farm equipment manufacturing, packaging, processing, transportation, marketing, lending, and insurance. Jobs are being lost, and our economy is going to decline further as a result. Low-producing farms mean a lowered

local tax base—as farms no longer generate income and create jobs.

As can be seen from this graphic I have in the Chamber, for every job lost on a farm and ranch, the country loses approximately three jobs in related sectors that are supported by having the agricultural community in this country.

I have received a letter from the Port of Oakland, which depends heavily on agribusiness for its survival. According to the port, last year more than 750 metric tons of agricultural products, worth approximately \$2.6 billion, were shipped through the port, representing 40 percent of the port's exports.

As these farms disappear, port jobs, basic jobs for people, also disappear. The central issue is not immigration; it is the bottom line of the American economy. I think Congress should be doing everything we can to prevent U.S. farms from closing down.

There is a solution, and it is this bill. This bill is well known, and this bill has been well supported in the past with a majority of votes. It is bipartisan. We can take it up and pass it today, and that would immediately help American farmers bolster the U.S. economy at a critical time.

The AgJOBS bill has two parts. The first meets the immediate needs of our farmers by creating a program that would provide an opportunity for experienced agricultural workers to earn the right to apply for legal status in this country.

The second part meets the long-term needs of farmers by reforming the H-2A program—that is the temporary worker program for the farm industry—so that if new workers are needed, farmers and growers have a legal path to bring workers in to harvest their crops.

The first step of the program requires that undocumented agricultural workers apply for a blue card if they can demonstrate they have worked in American agriculture in the United States for at least 150 workdays within the previous 2 years before December 31, 2008.

The second step requires that a blue cardholder work in the U.S. agricultural industry for an additional 150 workdays per year for at least 3 years, or 100 workdays per year for 5 years.

At the end of this time, a worker can obtain a green card and can continue to work in agriculture.

Workers participating in the program will be required to pay a fine of \$500, show that they are current on their taxes, and that they have not been convicted of any crime that involves bodily injury, the threat of bodily injury or harm to property.

Employment is verified through employer-issued itemized statements, pay stubs, W-2 forms, employer letters, contracts or agreements, employer-sponsored health care, timecards or payment of taxes.

At the end of 5 years, those workers will be able to gain citizenship in this country.

The blue card visa program will be capped at 1.35 million blue cards over 5 years and sunsets after 5 years.

All blue cards will have encrypted, biometric identifiers, and contain other anticounterfeiting protections. This provides, in effect, a biometric identifier for 1.35 million people who are undocumented but in the country today.

AgJOBS would also streamline the current guest worker program, known as the H-2A program, which is currently unwieldy and ineffective.

Among other things, the bill will shorten the labor certification process, which now often takes 60 days, reducing the approval process to between 48 to 72 hours.

Advertising and positive recruitment for U.S. workers in the local labor market is required by filing a job notification with the local office of the State employment security agency.

Petitions for admission of H-2A workers must be processed and the consulate or port of entry notified within 7 days of receipt.

The adverse effect wage rate would be frozen for 3 years, to be gradually replaced with a prevailing wage standard.

H-2A visas will be secure and counterfeit resistant.

The reforms to the H-2A agricultural worker program are especially important to meet the needs of year-round agricultural industries, such as dairy, which are not covered by the seasonal program.

Many say that dairy should use the seasonal H-2A program—but it does not work for that industry. They need workers 24/7, 365 days a year.

The National Milk Producers recently shared with me an economic study done by researchers at Texas A&M that will be released next week on the economic impacts of immigration on U.S. dairy farms. Over 5,000 dairy farms, surveyed nationally, with responses from 47 States, are in this study. Of these, 50 percent use immigrant labor. Immigrant labor now accounts for 62 percent of milk production in 47 States.

As can be seen from this chart I have in the Chamber, eliminating immigrant labor would reduce the U.S. dairy herd by 1.34 million, milk production by 29.5 billion pounds, and the number of farms by 4,532. Retail milk prices would increase by an estimated 61 percent.

This will be the result if we do not recognize what is a basic reality that farm and dairy communities depend on undocumented workers, who are the only workers who will do this kind of work.

This is hard for people to believe. However, a while back, we posted notices in the welfare departments of all 58 California counties that said: Agricultural worker jobs available. Please sign up here.

However, do you know how many workers came from this? Not a single one.

When I drive down the highway, down to Monterey, along the coast, and I go through the great Salinas Valley, I watch the row crops either being planted or sprayed or harvested. You see the workers in the field stooped over, hour after hour, in the sun, when it is 100 degrees or more in temperature, and you can see the specific nature of this type of work.

People think of this work as unskilled labor, but it is not. It is a learned skill. These workers have to move fast and be trained to use the farm equipment. They know how to work skillfully with their hands and move row after row, after row, down the field.

Last summer, a young pregnant woman working in the field collapsed from heat exhaustion and was taken to the hospital, where she died. Working in the field is back breaking, difficult work, and there are very few Americans who are willing to do this work.

The backbone of the agriculture industry in my State is the undocumented workforce and it is time to recognize that reality. I can't have—and Mr. President, you can't have—farmers standing in bread lines because they can't get the labor to plant or harvest their crops. The fields across America are increasingly being fallowed and this does not make sense.

Congress must stand tall and acknowledge that the basic workforce in the American agricultural community is undocumented farm labor. Undocumented workers take these jobs because they are professional and proud of the work that they do. I believe that is desirable.

This bill has previously passed with more than a majority in comprehensive immigration reform. It recognizes that the American farm industry is in crisis; that the industry is deteriorating; and that America is losing its produce. This bill stands up for American farmers and provides them with the workforce they deserve—American farmers like Toni Scully, a pear farmer from Lake County, CA.

Toni Scully experienced a devastating harvest that left much of her pear crop rotting on the ground because she could not find workers in time for the harvest.

Early last year, I heard from Dewey Zabka, an onion and potato farmer in northern Colorado who, for the first time in his company's 50-year history, had to downsize 25 percent of his production.

In the State of New York, 800 farms and \$700 million in sales may be forced to go out of business or scale back their farm operations if labor shortages continue. For the first time since 1991, Jim Bittner, the owner of Singer Farms in Appleton, NY, razed 10 percent of his sweet cherry and peach orchards last year because he could not get farm labor.

For the 2009 season, California growers who anticipate a shortage of reliable labor are deciding to move away

from planting permanent tree crops, including peach, plumb, nectarine, almond, pomegranate, and olive trees. Many of these farmers are supplementing these crops with pistachios, which can be harvested mechanically.

In June 2008, The Oregonian reported that Oregon's pear and onion industries are at risk of not being able to sustain production without consistent labor.

In Yuma County, AZ, where agricultural workers earn between \$10 and \$19 per hour, U.S. lettuce producers were unable to find enough laborers to harvest the spring crop of lettuce for 2008.

The truth is Americans will not do the work that sustains agriculture. It is hard, stooped labor requiring long and unpredictable hours. As a result, the labor shortage will be persistent. It is not going to get better next year, unless we have the courage and the guts to stand up for a major industry in America which deserves a steady labor base, particularly during these difficult economic times. And there are examples all over the nation that Americans simply won't fill these jobs.

H. Lee Showalter, a member of the Pennsylvania Apple Marketing Board, points to the example of the largest Macintosh apple producer in New York, who is required to advertise for local labor before joining a migrant labor program. Of the 300 workers he needed to fill, only 1 American worker applied.

Willoway Nurseries, Inc. has been in business in northern Ohio since 1954. Willoway Nurseries has attempted to recruit local workers, though to no avail. General nursery workers on this farm earn a starting wage of \$9.93 per hour. Yet it has been impossible for the nursery to recruit American help.

The Washington Farm Bureau reported that nearly 500 tons of apples were not picked in Washington State's apple harvests last year due to picker shortages. As Valoria H. Loveland, director of the Washington State Department of Agriculture, stated in a letter to me:

The reality of our local labor market [is that] local people who want to work are already employed, or are not interested in doing the seasonal and physically demanding work that characterizes our specialty crop production.

Experts estimate that nearly 80 percent of Florida's approximately 150,000 agricultural workers are undocumented immigrants. This is a \$1.6 billion a year business that produces up to 90 percent of the fresh domestic tomatoes that Americans eat between the months of December and May.

Many farmers have been in business for generations. Many farm the land that their parents and their grandparents farmed before them. California farms produce approximately 350 different crops: pears, walnuts, raisins, lettuce, onions, strawberries, and apricots, just to name a few. Without reform, we will continue to see the deterioration of American farms nationwide. This includes the possibility that

certain vegetables and fruits will no longer grow in our Nation, where we have stricter rules and regulations for safety.

Once the trees are gone, they are replaced by crops that do not require manual labor. As a result, our pears, our apples, our oranges will be increasingly coming from foreign sources. This is not what America wants, but it is what Congress's inaction compels.

The trend is quite clear. If there is not a means to grow and harvest our produce in this country, we will import produce from China, from Mexico, and from other countries that have sufficient labor. If our farmers want to stay in business, they will continue to go to Mexico and lease land and grow crops there. We are not doing our duty if we let this continue.

Steve Scaroni has been in the California lettuce and broccoli industry for over three decades. In recent years he has moved 2,000 acres and 500 jobs from his \$50 million operation in Heber, CA, to Guanajuato, Mexico. Steve wants his business to survive, and he can't hire or plant. If he can't plant, he can't pick. If he can't pick, he can't pack, and he won't be able to deliver a harvest. As a result, today Steve exports to the United States about 2 million pounds of lettuce a week. He has spent thousands of dollars to start up the new farms and to train workers to ensure that his crops meet U.S. food safety standards.

In Wilcox, AZ, Eurofresh Farms has transferred tomato crops and 150 workers to Sonora, Mexico, where tomatoes are grown and shipped to the U.S. on a daily basis.

Reforming the system means that we not only protect the agricultural industry, but also the health of this Nation. This past July, the Food and Drug Administration confirmed that a variety of jalapeno and serrano peppers grown in Mexico caused an outbreak of salmonella in the United States. This outbreak was first thought to have originated in tomatoes.

The repercussions of the outbreak were felt on farms from coast to coast. In Georgia alone, it is estimated that the tomato scare cost local farmers about \$14 million in total production value. Nationwide, the tomato industry lost at least \$100 million due to lower prices and reduced demand. At the same time, over the last 15 years, imports of tomatoes have increased 179 percent. Right now, almost 40 percent of the tomatoes that we eat are grown in a foreign country. Yet tomato farmers are being forced to close shop.

The agriculture industry has been seeking a resolution for the labor crisis for the past 10 years. Mr. President, I have received over 50 letters of support for AgJOBS.

I am committed to working with the Obama administration, and Senators LEAHY, SCHUMER, and KENNEDY, as well as the House champions, Representatives BERMAN and PUTNAM, and others, to support U.S. farmers and the work-

ers who provide the skilled labor needed to plant, tend and harvest our crops.

The time is now, and the solution is before us. I urge my colleagues to join me in support of AgJOBS and help restore America's farms before it is too late.

Mr. President, I ask unanimous consent that the text of the bill, letters of support, and list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1038

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2009" or the "AgJOBS Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, table of contents.

Sec. 2. Definitions.

#### TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

##### Subtitle A—Blue Card Status

Sec. 101. Requirements for blue card status.

Sec. 102. Treatment of aliens granted blue card status.

Sec. 103. Adjustment to permanent residence.

Sec. 104. Applications.

Sec. 105. Waiver of numerical limitations and certain grounds for inadmissibility.

Sec. 106. Administrative and judicial review.

Sec. 107. Use of information.

Sec. 108. Regulations, effective date, authorization of appropriations.

##### Subtitle B—Correction of Social Security Records

Sec. 111. Correction of Social Security records.

#### TITLE II—REFORM OF H-2A WORKER PROGRAM

Sec. 201. Amendments to the Immigration and Nationality Act.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Determination and use of user fees.

Sec. 302. Regulations.

Sec. 303. Reports to Congress.

Sec. 304. Effective date.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term "blue card status" means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 101(a).

(3) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(4) EMPLOYER.—The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

(6) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

# **TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS**

## **Subtitle A—Blue Card Status**

### **SEC. 101. REQUIREMENTS FOR BLUE CARD STATUS.**

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2008;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 105(b); and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted blue card status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF BLUE CARD STATUS.—

(1) DEPORTABLE ALIENS.—The Secretary shall terminate blue card status granted to an alien if the Secretary determines that the alien is deportable.

(2) OTHER GROUNDS FOR TERMINATION.—The Secretary shall terminate blue card status granted to an alien if—

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

(i) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 105(b);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500; or

(iv) fails to perform the agricultural employment required under paragraph (1)(A) of section 103(a) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in paragraph (3) of such section.

(e) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status shall annually—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Secretary.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under paragraph (1) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed \$1,000 per violation.

(B) LIMITATION.—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(3) SUNSET.—The obligation under paragraph (1) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted blue card status shall pay a fine of \$100 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,350,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

### **SEC. 102. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.**

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted blue card status (including a spouse or child of the alien granted derivative status) shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—Except as otherwise provided in law, an alien granted blue card status (including a spouse or child of the alien granted derivative status) shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 103.

### **SEC. 103. ADJUSTMENT TO PERMANENT RESIDENCE.**

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the require-

ments of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in section 101(e); or

(B) documentation that may be submitted under section 104(c).

(3) EXTRAORDINARY CIRCUMSTANCES.—

(A) IN GENERAL.—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months of agricultural employment in the United States to meet such requirement if the alien was unable to work in agricultural employment due to—

(i) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(ii) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records;

(iii) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

(iv) termination from agricultural employment, if the Secretary finds that the termination was without just cause and that the alien was unable to find alternative agricultural employment after a reasonable job search.

(B) EFFECT OF FINDING.—A finding made under subparagraph (A)(iv), with respect to an alien, shall not—

(i) be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding between the alien and a current or prior employer of the alien or any other party; or

(ii) subject the alien's employer to the payment of attorney fees incurred by the alien in seeking to obtain a finding under subparagraph (A)(iv).

(4) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(5) FINE.—The alien pays a fine of \$400 to the Secretary.

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary shall deny an alien granted blue card status an adjustment of status under this section if—

(1) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(2) the alien—

(A) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500; or

(D) failed to perform the agricultural employment required under paragraph (1)(A) of subsection (a) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in paragraph (3) of such subsection.

(c) **GROUND FOR REMOVAL.**—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) **PAYMENT OF TAXES.**—

(1) **IN GENERAL.**—Not later than the date on which an alien's status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

(B) all such outstanding tax liabilities have been paid; or

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) **APPLICABLE FEDERAL TAX LIABILITY.**—In paragraph (1) the term “applicable Federal tax liability” means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under subsection (a)(1) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(3) **IRS COOPERATION.**—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

(e) **SPOUSES AND MINOR CHILDREN.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) **TREATMENT OF SPOUSES AND MINOR CHILDREN.**—

(A) **GRANTING OF STATUS AND REMOVAL.**—The Secretary shall grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 101.

(B) **TRAVEL.**—The derivative spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(C) **EMPLOYMENT.**—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(3) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.**—The Secretary shall deny an alien spouse or child adjustment of status under paragraph (1) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

#### SEC. 104. APPLICATIONS.

(a) **SUBMISSION.**—The Secretary shall provide that—

(1) applications for blue card status may be submitted—

(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary; and

(2) applications for adjustment of status under section 103 shall be filed directly with the Secretary.

(b) **QUALIFIED DESIGNATED ENTITY DEFINED.**—In this section, the term “qualified designated entity” means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled “An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes”, approved November 2, 1966 (Public Law 89-732; 8 U.S.C. 1255 note), Public Law 95-145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99-603; 100 Stat. 3359) or any amendment made by that Act.

(c) **PROOF OF ELIGIBILITY.**—

(1) **IN GENERAL.**—An alien may establish that the alien meets the requirement of section 101(a)(1) or 103(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) **DOCUMENTATION OF WORK HISTORY.**—

(A) **BURDEN OF PROOF.**—An alien applying for status under section 101(a) or 103(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101(a)(1) or 103(a)(1), as applicable.

(B) **TIMELY PRODUCTION OF RECORDS.**—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) **SUFFICIENT EVIDENCE.**—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required by section 101(a)(1) or 103(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) **APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.**—

(1) **REQUIREMENTS.**—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) **NO AUTHORITY TO MAKE DETERMINATIONS.**—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) **LIMITATION ON ACCESS TO INFORMATION.**—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) **CONFIDENTIALITY OF INFORMATION.**—

(1) **IN GENERAL.**—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) **REQUIRED DISCLOSURES.**—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) **CONSTRUCTION.**—

(A) **IN GENERAL.**—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) **CRIMINAL CONVICTIONS.**—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status or an adjustment of status under section 103 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) **CRIME.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed \$10,000.

(g) **PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.**—

(1) **CRIMINAL PENALTY.**—Any person who—

(A) files an application for blue card status or an adjustment of status under section 103 and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) **INADMISSIBILITY.**—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) **ELIGIBILITY FOR LEGAL SERVICES.**—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status or an adjustment of status under section 103.

(i) **APPLICATION FEES.**—

(1) **FEE SCHEDULE.**—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status or for an adjustment of status under section 103; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) **PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.**—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) **DISPOSITION OF FEES.**—

(A) **IN GENERAL.**—There is established in the general fund of the Treasury a separate account, which shall be known as the “Agricultural Worker Immigration Status Adjustment Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) **USE OF FEES FOR APPLICATION PROCESSING.**—Amounts deposited in the “Agricultural Worker Immigration Status Adjustment Account” shall remain available to the Secretary until expended for processing applications for blue card status or an adjustment of status under section 103.

#### **SEC. 105. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.**

(a) **NUMERICAL LIMITATIONS DO NOT APPLY.**—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 103.

(b) **WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.**—In the determination of an alien's eligibility for status under section 101(a) or an alien's eligibility for adjustment of status under section 103(b)(2)(A) the following rules shall apply:

(1) **GROUNDS OF EXCLUSION NOT APPLICABLE.**—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) **WAIVER OF OTHER GROUNDS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) **GROUNDS THAT MAY NOT BE WAIVED.**—Subparagraphs (A), (B), (C), (D), (G), (H), and (I) of paragraph (2) and paragraphs (3) and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) **CONSTRUCTION.**—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) **SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.**—An alien is not ineligible for blue card status or an adjustment of status under section 103 by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(c) **TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.**—

(1) **BEFORE APPLICATION PERIOD.**—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 101(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) **DURING APPLICATION PERIOD.**—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 101(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

#### **SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.**

(a) **IN GENERAL.**—There shall be no administrative or judicial review of a determination respecting an application for blue card status or adjustment of status under section 103 except in accordance with this section.

(b) **ADMINISTRATIVE REVIEW.**—

(1) **SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.**—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) **STANDARD FOR REVIEW.**—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) **JUDICIAL REVIEW.**—

(1) **LIMITATION TO REVIEW OF REMOVAL.**—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) **STANDARD FOR JUDICIAL REVIEW.**—Such judicial review shall be based solely upon the

administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

#### **SEC. 107. USE OF INFORMATION.**

Beginning not later than the first day of the application period described in section 101(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 104(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

#### **SEC. 108. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.**

(a) **REGULATIONS.**—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) **EFFECTIVE DATE.**—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2009 and 2010.

#### **Subtitle B—Correction of Social Security Records**

#### **SEC. 111. CORRECTION OF SOCIAL SECURITY RECORDS.**

(a) **IN GENERAL.**—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted blue card status under the Agricultural Job Opportunities, Benefits, and Security Act of 2009”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

#### **TITLE II—REFORM OF H-2A WORKER PROGRAM**

#### **SEC. 201. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.**

(a) **IN GENERAL.**—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

##### **“SEC. 218. H-2A EMPLOYER APPLICATIONS.**

“(a) **APPLICATIONS TO THE SECRETARY OF LABOR.**—

“(1) **IN GENERAL.**—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

“(A) the assurances described in subsection (b);

“(B) a description of the nature and location of the work to be performed;

“(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

“(D) the number of job opportunities in which the employer seeks to employ the workers.

“(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

“(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

“(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

“(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

“(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

“(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H-2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H-2A worker.

“(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(H) EMPLOYMENT OF UNITED STATES WORKERS.—

“(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

“(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking

workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H-2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H-2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H-2A worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H-2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H-2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.”

**“SEC. 218A. H-2A EMPLOYMENT REQUIREMENTS.**

“(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H-2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor

that there is adequate housing available in the area of intended employment for migrant farm workers and H-2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall

provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker’s living quarters and the employer’s worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2009 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2009, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2009, had been annually adjusted, beginning on March 1, 2012, by the lesser of—

“(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker’s wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker’s wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker’s total earnings for the pay period;

“(ii) the worker’s hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over

and above the  $\frac{3}{4}$  guarantee described in paragraph (4);

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker’s wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2011, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this subparagraph referred to as the ‘Commission’).

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(V) recommendations for future wage protection under this section.

“(iv) FINAL REPORT.—Not later than December 31, 2011, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

“(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

“(4) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least  $\frac{3}{4}$  of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker’s Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker’s Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the  $\frac{3}{4}$  guarantee described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker’s employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

“(5) MOTOR VEHICLE SAFETY.—

“(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

“(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H-2A worker within the United States.

“(ii) DEFINED TERM.—In this paragraph, the term ‘uses or causes to be used’—

“(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

“(II) does not apply to—

“(aa) transportation provided, or transportation arrangements made, by an H-2A

worker, unless the employer specifically requested or arranged such transportation; or

“(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers’ own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

“(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H-2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

“(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

“(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

“(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

“(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

“(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H-2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS’ COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers’ compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this as-

surance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer’s application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

**“SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS.**

“(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again be-

comes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H-2A worker who violates any term or condition of the worker’s nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien’s identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

“(A) for a period of more than 10 months; or

“(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

“(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

“(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H-2A worker (including any extensions) is 3 years.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H-2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H-2A worker unless the alien has remained outside the United States for a continuous period equal to at least  $\frac{1}{2}$  the duration of the alien's previous period of authorized status as an H-2A worker (including any extensions).

“(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H-2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

“(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2009, an alien admitted under section 101(a)(15)(H)(i)(a) for employment as a shepherd, goat herder, or dairy worker—

“(1) may be admitted for an initial period of 12 months;

“(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

“(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

“(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

“(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term ‘eligible alien’ means an alien—

“(A) having nonimmigrant status under section 101(a)(15)(H)(i)(a) based on employment as a shepherd, goat herder, or dairy worker;

“(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

“(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

“(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

“(A) the alien's employer on behalf of the eligible alien; or

“(B) the eligible alien.

“(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

“(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(i)(a).

“(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of

status to that of an alien lawfully admitted for permanent residence.

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

#### “SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

“(a) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(i)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as

the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) **DISPLACEMENT OF UNITED STATES WORKERS.**—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 3 years.

“(F) **LIMITATIONS ON CIVIL MONEY PENALTIES.**—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

“(G) **FAILURES TO PAY WAGES OR REQUIRED BENEFITS.**—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(2) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

“(b) **RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.**—H-2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

“(2) The reimbursement of transportation as required under section 218A(b)(2).

“(3) The payment of wages required under section 218A(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) **PRIVATE RIGHT OF ACTION.**—

“(1) **MEDIATION.**—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) **MEDIATION SERVICES.**—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

“(B) **90-DAY LIMIT.**—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) **AUTHORIZATION.**—

“(i) **IN GENERAL.**—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

“(ii) **MEDIATION.**—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) **MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.**—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) **ELECTION.**—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) **PREEMPTION OF STATE CONTRACT RIGHTS.**—Nothing in this Act shall be construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) **WAIVER OF RIGHTS PROHIBITED.**—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence

may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) **AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.**—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) **WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.**—

“(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H-2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers' compensation law; or

“(ii) rights conferred under a State workers' compensation law.

“(8) **TOLLING OF STATUTE OF LIMITATIONS.**—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

“(9) **PRECLUSIVE EFFECT.**—Any settlement by an H-2A worker and an H-2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) **SETTLEMENTS.**—Any settlement by the Secretary of Labor with an H-2A employer on behalf of an H-2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(d) **DISCRIMINATION PROHIBITED.**—

“(1) **IN GENERAL.**—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the

employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H-2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H-2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association member or members as well.

#### “SEC. 218D. DEFINITIONS.

“For purposes of this section and section 218, 218A, 218B, and 218C:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

“(2) BONA FIDE UNION.—The term ‘bona fide union’ means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

“(3) DISPLACE.—The term ‘displace’, in the case of an application with respect to 1 or more H-2A workers by an employer, means laying off a United States worker from a job for which the H-2A worker or workers is or are sought.

“(4) ELIGIBLE.—The term ‘eligible’, when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

“(5) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(6) H-2A EMPLOYER.—The term ‘H-2A employer’ means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

“(7) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(8) JOB OPPORTUNITY.—The term ‘job opportunity’ means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

“(9) LAYING OFF.—

“(A) IN GENERAL.—The term ‘laying off’, with respect to a worker—

“(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

“(10) REGULATORY DROUGHT.—The term ‘regulatory drought’ means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

“(11) SEASONAL.—Labor is performed on a ‘seasonal’ basis if—

“(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

“(B) from its nature, it may not be continuous or carried on throughout the year.

“(12) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(13) TEMPORARY.—A worker is employed on a ‘temporary’ basis where the employment is intended not to exceed 10 months.

“(14) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).”.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

“Sec. 218. H-2A employer applications.

“Sec. 218A. H-2A employment requirements.

“Sec. 218B. Procedure for admission and extension of stay of H-2A workers.

“Sec. 218C. Worker protections and labor standards enforcement.

“Sec. 218D. Definitions.”.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 201(a) of this Act and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 201 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 201(a) of this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 201(a) of this Act shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out—

(1) sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 201 of this Act; and

(2) the provisions of this Act.

#### SEC. 302. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this Act and the amendments made by this Act.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this Act and the amendments made by this Act.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this Act and the amendments made by this Act.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 201 of this Act, shall take effect on the effective date of section 201 and shall be issued not later than 1 year after the date of enactment of this Act.

#### SEC. 303. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection (e)(2) of section 218B of such Act, as added by section 201;

(3) the number of such aliens who departed the United States within the period specified in subsection (d) of such section 218B;

(4) the number of aliens who applied for blue card status pursuant to section 101(a);

(5) the number of aliens who were granted such status pursuant section 101(a);

(6) the number of aliens who applied for an adjustment of status pursuant to section 103(a); and

(7) the number of aliens who received an adjustment of status pursuant section 103(a).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this Act.

#### SEC. 304. EFFECTIVE DATE.

The amendments made by section 201 and section 301 shall take effect 1 year after the date of the enactment of this Act.

CHANGE TO WIN,  
Washington, DC, May 14, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: The seven affiliated unions and six million members of Change to Win write to thank you for your continued leadership in reintroducing the "AgJOBS" bill (the Agricultural Job Opportunities, Benefits, and Security Act of 2009), and to pledge our full support for its enactment.

The effects of our broken immigration system on the labor market must be addressed. Farm workers and their families live in fear of deportation, and agricultural growers across the country face worker shortages. AgJOBS would enable farm workers to bargain for better working and living conditions and provide growers a legal stable labor supply by offering undocumented farm workers the chance to come out of the shadows and earn legal status by meeting stringent agricultural-work requirements. It is important that AgJOBS would also revise the H-2A agricultural guestworker program in a balanced manner.

This bipartisan bill is the product of congressional negotiations and an historic compromise between the United Farm Workers and major agribusiness employers. It also has the full support of hundreds of farmer, worker, and immigrant organizations. Its passage would be a substantial down payment on the kind of comprehensive immigration reform our country needs.

Sincerely,

Anna Burger, Chair, Change to Win,  
International Secretary-Treasurer,

Service Employees International Union (SEIU); Edgar Romney, Secretary-Treasurer, Change to Win, Executive Vice President, UNITE HERE; Joseph Hansen, International President, United Food and Commercial Workers, International Union, UFCW; James Hoffa, General President, International Brotherhood of Teamsters (IBT); GERALYN LUTTY, United Food and Commercial Workers International Union (UFCW).

Douglas J. McCarron, General President, United Brotherhood of Carpenters and Joiners of America (UBC); Terence M. O'Sullivan, General President, Laborer's International Union of North America (LIUNA); Bruce Raynor, General President, Unite Here; Arturo S. Rodriguez, President, United Farm Workers (UFW); Andrew L. Stern, International President, Service Employees International Union (SEIU).

LEADERSHIP CONFERENCE  
ON CIVIL RIGHTS,  
Washington, DC, May 14, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, we thank you for introducing the Agricultural Job Opportunities, Benefits and Security Act ("AgJOBS") of 2009. We have strongly supported virtually identical versions of the AgJOBS bill in previous Congresses, and we look forward to working with your office and our other allies in the effort to move it forward in the 111th Congress.

AgJOBS would provide a legal, stable agricultural labor supply and, at the same time, give undocumented farmworkers the chance to come out of the shadows and earn legal immigration status a) by meeting a past-work requirement in American agriculture and b) through stringent future agricultural-work requirements. Giving farmworkers the ability to legalize their status is critical to enabling them to bargain for better working and living conditions. AgJOBS represents a balanced approach and is a tremendous improvement over the current H-2A agricultural guestworker program, thanks to the concessions made by all sides in this debate.

The treatment of farmworkers is a matter of great importance to the civil rights community. Whether it was Chinese immigrants in the 19th century, the 4.5 million braceros brought into the United States during the World War II era, or H-2A workers under the current program, guestworkers have long been the most vulnerable and poorly treated workers among us. Even today, they are subject to below poverty-level wages and a lack of coverage by basic labor standards that other American workers take for granted—and they lack the political and economic power to improve these conditions on their own. It is because of this that we speak up today for their rights, and strongly urge the enactment of AgJOBS.

Sincerely,

WADE HENDERSON,  
President & CEO.  
NANCY ZIRKIN,  
Executive Vice President.

DAIRY FARMERS OF AMERICA,  
May 12, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR FEINSTEIN: Last Congress, you showed extraordinary leadership in au-

thoring the Agricultural Jobs, Opportunity, Benefits and Security Act (AgJOBS), a bill which restructures and reforms the current H-2A temporary agricultural worker program to ensure a reliable and legal workforce for the agricultural community. On behalf of the nearly 18,000 members of Dairy Farmers of America, Inc. (DFA) we applaud your decision to reintroduce this important measure in the 111th Congress.

Dairy Farmers of America is a dairy marketing cooperative that serves and is owned by dairy farmers in 48 states. Our cooperative's success is built on the success of its producer-members, who raise their dairy herds and their families on family farms across the nation.

Immigrant labor plays a crucial role in contributing to the success of our members and the dairy industry as a whole. A large percentage of the hired workers on dairy farms of all sizes are immigrants. Unfortunately, unlike most other immigrant-dependent agricultural sectors, the dairy industry is currently blocked by the Department of Labor (DOL) from using the H-2A program because of the program's requirement that the worker and job both be temporary or seasonal. This seasonality aspect of the H-2A program has prevented dairy farmers from using the program to attract and maintain needed workers. In order to survive, our industry needs reform in the system now.

Once again, on behalf of DFA members across the country, we appreciate your leadership on this matter and stand ready to fight for its passage.

Sincerely,

JOHN WILSON,  
Senior Vice President,  
Marketing and Industry Affairs.

U.S. APPLE ASSOCIATION,  
Vienna, VA, May 11, 2009.

Hon. DIANNE FEINSTEIN,  
Hart Building, U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN, thank you for standing up for the U.S. apple industry and other labor intensive agriculture by reintroducing the AgJOBS bill in the Senate.

Apple production and harvesting is highly labor-intensive. The cost and availability of a predictable, consistent and legal supply of labor is critically important to the U.S. apple industry.

The past few years have brought great uncertainty to our industry. Labor shortages coupled with increased enforcement and a cumbersome, unworkable H-2A guest worker program have meant that, even in good crop years, growers' livelihoods are in jeopardy when they cannot get all of their apples off the tree. This has led many in the industry to delay or cancel plans to expand and in some cases to get out of the fruit business altogether.

We need AgJOBS! Without this critical legislation, the U.S. could lose much of our domestic apple industry and with it over \$2 billion in farm gate value. Our apples would have to be imported, most likely from China, the world's largest producer of apples. We've seen what dependence on foreign oil has been like. Can you imagine dependence on foreign food? This is not what American consumers want.

USApple and our industry leaders stand ready to work with you and your staff to pass AgJOBS. We have supported the legislation since the first year it was introduced and it is our top legislative priority.

Thank you again for your leadership on this critical issue.

Sincerely,

NANCY E. FOSTER,  
President & CEO.

SOCIETY OF AMERICAN FLORISTS,  
MAY 12, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the members of the Society of American Florists (SAF), I understand that you plan to reintroduce the Agricultural Job Opportunities, Benefits and Security Act (AgJOBS) this week. We applaud you for your courageous leadership and tenacity in working to advance agricultural labor reform. AgJOBS reflects years of negotiations on complex and contentious issues and will achieve historic and critical reforms to our nation's labor and immigration laws.

The bipartisan AgJOBS legislation recognizes the unique and urgent need of labor intensive agricultural industries—ranging from floral and nursery to fruits and vegetables, meat and dairy farms—to have access to a legal workforce. Thank you for recognizing these needs and taking the lead to change the untenable status quo. Your efforts on behalf of agriculture will go far to preserve one of our country's strategic commodities—a stable and reliable labor supply that produces our food and helps to sustain our economy.

An estimated two-thirds of farm workers lack proper work authorization. No other segment of the economy is so dependent upon a foreign-born workforce. Our industry is also vulnerable to the increased workplace immigration enforcement focused on employers. In addition, several pending regulatory enforcement mechanisms like the “no-match” rule and “E-Verify” mandate an immediate legislative solution to the labor problems of agriculture.

Agricultural economists estimate that three non-farm jobs in the upstream and downstream economy are sustained by every farm worker job. Absent the reforms of AgJOBS, many of these jobs will be lost because agricultural producers will have no choice but to cut back or send some of their production offshore.

In addition, AgJOBS will contribute to increasing national security by enhancing the rule of law. In the short term, those eligible to earn legal status must come forward, submit to a background check and make substantial commitment to agricultural work prospectively. This ability to retain our trained workforce will lead to a long-term solution so that capacity can be built to allow greater participation in a reformed H-2A program.

Finally, the bipartisan AgJOBS continues to have the endorsement and support of organized labor, agriculture, immigrant rights and religious community groups, and general business, through three Congresses.

Thank you for your leadership and vision on this vital issue. We look forward to working with you in the months ahead to enact AgJOBS.

The Society of American Florists is the national trade association representing the entire floriculture industry, a \$21 billion component of the U.S. economy at retail. Membership includes about 10,000 small businesses, including growers, wholesalers, retailers, importers and related organizations, located in communities nationwide and abroad. The industry produces and sells cut flowers and foliage, foliage plants, potted flowering plants, and bedding plants.

Sincerely,

KEVIN PRIEST,  
Chairman, Government Relations Committee.

AMERICAN NURSERY &  
LANDSCAPE ASSOCIATION,  
Washington, DC, May 12, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: The American Nursery & Landscape Association commends you for your steadfast leadership toward resolving the labor crisis that threatens every labor-intensive sector of agriculture in America. ANLA represents 2000 active member firms and an additional 20,000 grassroots network participants who grow, sell, and install landscape plants. ANLA members also produce the orchard and vineyard planting stock that sustains farms in California and across the nation. At farmgate, our industry was valued by the U.S. Department of Agriculture at over \$16 billion in 2007. California is of course the nation's leading nursery stock producer, but nurseries are an important agricultural component from coast to coast. Nursery and greenhouse production ranks among the top five sectors of agriculture in 28 states, and in the top 10 in all 50 states!

Nursery farming is inherently labor intensive and requires specialized skills. As with the rest of agriculture, much of the nursery workforce is comprised of foreign workers; their labor here contributes immensely to the American economy and secures the continued employment of hundreds of thousands of nursery farm managers, office, marketing, sales, and other staff—good American jobs that will move to Canada or Mexico or China if we do not have a stable and legal workforce performing the nursery work that cannot be readily mechanized.

ANLA has long supported AgJOBS because its bipartisan, common-sense reforms reflect how our country and our Congress must confront and solve myriad tough challenges. AgJOBS recognizes the unique experience and talent of the farm labor force that is here, now, feeding America, and encourages these workers to continue contributing to the well-being of our nation as they earn their way to a brighter future. AgJOBS also provides a lasting solution through a sweeping overhaul of the H-2A program. Indeed, we could not support a bill that fails to provide a lasting solution. Many ANLA members now use H-2A and many more will be able to when the reforms of AgJOBS are enacted.

Senator, we have shared a difficult journey, and the journey is far from complete. We look forward to the enactment of the urgently-needed reforms of AgJOBS, whether as part of a much broader effort to reform America's failing immigration system, or as part of a strategic first step. Again, thank you for your leadership.

Sincerely,

ROBERT J. DOLIBOIS, CAE,  
Executive Vice President.  
CRAIG J. REGELBRUGGE,  
Vice President for Government Relations.

AMERICAS MAJORITY,  
Overland Park, KS, May 11, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: I would like to commend you on the AgJobs Act of 2009, a piece of legislation crucial to maintaining America's position in an increasingly internationalized market in vegetables, fruits, and grains. The bill is a paradigm of what immigration reform should be—friendly alike to families and businesses, but mindful of the needs of public safety.

It is well known to those who represent agricultural constituents that foreign migrant workers are crucial to American farmers,

ranchers, and foresters. What is less understood is the vast network of white collar jobs that depend on maintaining access to guest workers in America. Roughly one half of the agricultural labor force consists of those who work with crops in field, nurseries, and greenhouses. The rest, as the Bureau of Labor Statistics NAICS codes reveal, represent a cross section of American skills: Managers in production, finance, transportation, and sales; computer programmers and systems analysts; accountants and auditors; life scientists and agricultural engineers; pilots and truck drivers, riggers and diesel mechanics; salesmen, secretaries and receptionists—an entire world of white collar jobs on American soil, much of it dependent on the competitive nature of our operations in the fields, nurseries, and greenhouses.

It has become fashionable in some circles to pretend that the exclusion of foreign workers from America's farms will relieve American farmers of their competition. This is not so. It is possible, had one the heart for it, to remove Mexican nationals from American fields—but we cannot remove Argentinians from Argentina, Brazilians from Brazil, or Malaysians from Malaysia. A healthy agricultural industry requires access to all types of labor, including field labor, on a competitive basis, here in America.

We hope you will succeed in moving AgJobs 2009 to keep American agriculture competitive.

Best,

RICHARD NADLER,  
President.

MAY 11, 2009.

Senator DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing out of deep concern for the future of the agricultural industry in California, and the U.S. generally. For reasons set forth more fully below, it is imperative that Congress pass legislation this year, such as AgJOBS, that will provide agriculture with a stable, reliable and legal workforce.

As you know, California agriculture relies upon a large immigrant workforce. The current economic crisis and rampant unemployment has only confirmed what you and our industry have been saying for years: American workers will not do these jobs. Despite staggering job losses, there has been no perceptible shift in the demographic makeup of our workforce. Today, as always, our industry relies on a community of talented immigrant farmworkers. They are the best farmworkers in the world, and our industry would cease to exist without them.

Honest employers who do not intend to hire illegal immigrants, but unknowingly do when employees provide them with false but genuine-appearing employment verification documents, stand beneath the proverbial Sword of Damocles, never knowing if their workforce—or they themselves—will be hauled off by federal agents. Where should agricultural employers look to find labor when Americans won't do the job and the ones that will are largely falsely documented? The answer is not the current H-2A program, which is notoriously cumbersome, uneconomical and prone to litigation.

I submit that the best opportunity to solve the farm labor issues in California and the U.S. is AgJOBS. AgJOBS would provide workable and fair legal channels for farmworkers to enter the country, work, and return home after completing the season. At the same time, there is a clear and compelling need for experienced farmworkers who lack legal status to be given a chance to earn legal status over time, subject to reasonable conditions.

California's \$32 billion dollar agricultural industry produces one-half of the nation's fruits, vegetables and tree nuts. Without the passage and implementation of AgJOBS, California and the nation will continue to export farms along with the field jobs and three to four upstream and downstream jobs that are created in the agricultural industry. Furthering U.S. dependency on imported crops from countries such as China is not only dangerous for our health, it is devastating to our economy.

It is imperative that AgJOBS pass this year. On behalf of Western Growers, I urge you to introduce AgJOBS in the Senate as soon as possible, as this legislation must not be delayed any longer.

Sincerely,

THOMAS A. NASSIF,  
President and CEO,  
Western Growers.

UNITED FARM WORKERS,  
Keene, CA, May 14, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your leadership on the Agricultural Job Opportunities, Benefits, and Security Act ("AgJOBS").

As you are well-aware, the status quo for farmworkers and agricultural employers is untenable and must be reformed. The majority of farmworkers lack immigration status. Because they live and work in the shadows, undocumented farmworkers are too fearful to complain about violations of their wages and working conditions and are vulnerable to exploitation by labor contractors and growers. The wages of all farmworkers are depressed by the presence of so many employees who lack any meaningful bargaining power. The ability to legalize the immigration status of farmworkers under AgJOBS is key to enabling farmworkers to bargain for better working and living conditions.

With this letter are just a few stories of farmworkers and their families who will be helped by the passage of AgJOBS. The United Farm Workers collected these stories from farmworkers and farmworker groups and unions throughout the country. There are thousands more like them.

Thank you for your continued leadership and commitment to AgJOBS. We look forward to working with you to achieve this desperately needed reform.

Sincerely,

ARTURO S. RODRIGUEZ,  
President

THE NATIONAL ASSOCIATION OF  
STATE DEPARTMENTS OF AGRICULTURE,  
Washington, DC, May 11, 2009.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FEINSTEIN: The National Association of State Departments of Agriculture (NASDA) is a nonprofit nonpartisan association that represents the Commissioners, Secretaries and Directors of Agriculture in the 50 states and for US territories. NASDA supports the Agricultural Job Opportunity, Benefits and Security Act of 2009 (AgJOBS).

As leaders in agriculture, we recognize that a critical workforce need exists today in agriculture. Millions of American jobs depend on agricultural production and will be enhanced with legislation that can secure a legal work force for agriculture as well as regularize the status of current agricultural workers through an adjustment program problem. Farmers in most regions of the United States have faced critical shortages of entry level workers for many years.

AgJOBS is a solution for workers and agriculture producers.

NASDA has carefully considered the farm labor issue and has concluded that Congress needs to enact immigration reform legislation that provides workable and fair legal channels for farmworkers to enter the country, work, and return home when the season is over. The best opportunity to achieve both of these goals is the bipartisan and time-tested AgJOBS.

NASDA's current policy on agricultural labor is consistent with the objectives of the AgJOBS legislation. NASDA policy addresses four areas of concern to all agricultural industries: concern for the basic rights of all agricultural workers, recognition that the current H2A program does not serve as a viable means for addressing gaps in the local workforce, the need for a trustworthy identification system for non-citizen workers, and the need to regularize the status of the existing workforce during a transition to a more transparent and enforceable means of meeting basic workforce needs.

We greatly appreciate your support and re-introduction of this important legislation.

RON SPARKS,  
NASDA President, Commissioner,  
Alabama Department of Agriculture &  
Industries.

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA,  
Washington, DC, May 14, 2009.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports the "Agricultural Job Opportunity, Benefits, and Security Act of 2009" (AgJOBS), which is expected to be introduced today.

The Chamber supports a comprehensive solution to fixing America's broken immigration system and believes that AgJOBS is a step towards that goal and one that can be taken now. One of the bill's most important attributes is that it provides a reasonable mechanism for the most experienced, but unauthorized agricultural workers to earn legal status subject to strict conditions.

Agriculture is a sector that is highly sensitive to foreign competition. Forcing much of U.S. agricultural production offshore through an enforcement-only approach to immigration policy is resulting in significant loss of American jobs and leaving the United States less secure. The U.S. agriculture sector is the most reliant on the foreign-born labor supply. However, each farmworker sustains jobs in the upstream and downstream economy—equipment, supplies and services, packaging and distribution, lending and insurance.

The bipartisan AgJOBS is the fruit of years of hard work by business and labor, conservatives and liberals, Republicans and Democrats alike. The Chamber urges your support for enactment of AgJOBS, this year.

Sincerely,

R. BRUCE JOSTEN,  
Executive Vice President, Government Affairs.

AGRICULTURE COALITION FOR IMMIGRATION  
REFORM—MEMBERS AND SUPPORTERS

AgriMark Inc; Agri-Placement Services; Allied Federated Co-Ops, Inc; Allied Grape Growers; Almond Hullers and Processors; American Agri-Women; American Frozen Foods Institute; American Horse Council; American Mushroom Institute; American Nursery & Landscape Association; American Sheep Industry Association; CoBank; Council of Northeast Farmer Cooperatives; Dairy Farmers of America; DairyLea Cooperative,

Incorporated; Farwest Equipment Dealers Association; Federation of Employers and Workers of America; Gulf Citrus Growers Association; Irrigation Association; Land O' Lakes.

National Association of State Departments of Agriculture; National Cattlemen's Beef Association; National Christmas Tree Association; National Cotton Ginners Association; National Council of Agricultural Employers; National Council of Farmer Cooperatives; National Farmers Union; National Greenhouse Manufacturers Association; National Milk Producers Federation; National Potato Council; National Watermelon Association; New England Apple Council; Nisei Farmers League; Northeast Dairy Producers; Northern Christmas Tree Growers; Northeast Farm Credit; Northwest Farm Credit Services; Northwest Horticultural Council; OFA—An Association of Floriculture Professionals; Pacific Northwest Christmas Tree Association.

Pacific Tomato Growers; Perennial Plant Association; Produce Marketing Association; Pro-Fac Cooperative; Raisin Bargaining Association; Rocky Mountain Farmers Union; Senseney South Corporation; Snake River Farmers Association; Society of American Florists; Southeast Cotton Ginners Association, Inc; Southeast Dairy Farmers Association; Southern Christmas Tree Association; Southern Cotton Ginners Association; Southern Nursery Association; Turfgrass Producers International; United Agribusiness League; United Egg Association; United Egg Producers; United Fresh Produce Association; U.S. Apple Association.

U.S. Custom Harvesters Association; Western Growers; Western Plant Health Association; Western Range Association; Western United Dairymen; WineAmerica; Wine Grape Growers of America; Wine Institute; Agricultural Affiliates (New York); Agricultural Council of California; Alabama Nursery & Landscape Association; Alabama Watermelon Association; Arizona Nursery Association; Arkansas Green Industry Association; Blue Diamond Growers; California Apple Commission; California-Arizona Watermelon Association; California Avocado Commission; California Association of Nurseries and Garden Centers; California Association of Wine Grape Growers.

California Canning Peach Association; California Citrus Mutual; California Dairies Inc; California Dried Plum Board; California Farm Bureau Federation; California Fig Institute; California Floral Council; California Grain and Feed Association; California Grape and Tree Fruit League; California League of Food Processors; California Pear Growers Association; California Seed Association; California Strawberry Commission; California Strawberry Nurserymen's Association; California Walnut Commission; California Women for Agriculture; Nursery Growers Association (CA); Olive Grower Council of California; Pacific Egg and Poultry Association; Sunmaid Growers of California.

Sunsweet Growers Inc.; Valley Fig; Ventura County Agricultural Association; Associated Landscape Contractors of Colorado; Colorado Nursery & Greenhouse Association; Colorado Potato Administrative Committee; Colorado Sugarbeet Growers Association; Colorado Wine Industry Development Board; Connecticut Nursery & Landscape Association; Florida Citrus Mutual; Florida Citrus Packers; Florida Fruit and Vegetable Association; Florida Nursery, Growers & Landscape Association; Florida Watermelon Association; Georgia Green Industry Association; Georgia Milk Producers; Georgia Watermelon Association; Winegrowers Association

of Georgia; Idaho Apple Commission; Idaho Dairymen's Association.

Idaho Dairy Producers Assn.; Idaho Grower Shippers Association; Idaho Nursery & Landscape Association; Idaho-Oregon Fruit and Vegetable Association; Potato Growers of Idaho; Illinois Grape Growers and Vintners Association; Illinois Landscape Contractors Association; Illinois Nurserymen's Association; Illinois Specialty Growers Association; Indiana-Illinois Watermelon Association; Indiana Nursery & Landscape Association; Iowa Nursery and Landscape Association; Kansas Nursery and Landscape Association; Kentucky Nursery & Landscape Association; Farm Credit of Maine; Maine Nursery & Landscape Association; Maryland-Delaware Watermelon Association; Maryland Nursery & Landscape Association; Associated Landscape Contractors of Massachusetts; Massachusetts Nursery & Landscape Association.

Michigan Apple Committee; Michigan Blueberry Growers; Michigan Christmas Tree Association; Michigan Green Industry Association; Michigan Horticultural Society; Michigan Nursery and Landscape Association; Michigan Vegetable Council; WineMichigan; Minnesota Nursery & Landscape Association; Mississippi Nursery Association; Missouri-Arkansas Watermelon Association; Missouri Landscape & Nursery Association; Montana Nursery & Landscape Association; Nebraska Nursery & Landscape Association; New England Nursery Association; New Jersey Nursery & Landscape Association; Dairy Producers of New Mexico; Cayuga Marketing; Farm Credit of Western New York; First Pioneer Farm Credit.

New York Apple Association; New York Horticulture Society; New York State Nursery & Landscape Association; New York State Vegetable Growers Association; ProFac Cooperative; Yankee Farm Credit; North Carolina Association of Nurserymen; North Carolina Christmas Tree Association; North Carolina Commercial Flower Growers Association; North Carolina Farm Bureau Federation; North Carolina Greenhouse Vegetable Growers Association; North Carolina Green Industry Association; North Carolina Potato Association; North Carolina Strawberry Association; North Carolina Watermelon Association; North Carolina Wine & Grape Council; Northern California Growers Association; North Dakota Nursery & Greenhouse Association; Northern Ohio Growers Association; Nursery Growers of Lake County Ohio, Inc.

Ohio Fruit Growers Society; Ohio Nursery & Landscape Association; Ohio Vegetable & Potato Growers Association; Oklahoma Greenhouse Growers Association; Oklahoma State Nursery & Landscape Association; Hood River Grower-Shipper Association; Oregon Association of Nurseries; Oregon Wine Board; Pennsylvania Landscape & Nursery Association; State Horticultural Association of Pennsylvania;

Raisin Bargaining Association; Rhode Island Nursery and Landscape Association; Snake River Farmers Association; South Carolina Greenhouse Growers Association; South Carolina Nursery & Landscape Association; South Carolina Watermelon Association; South Dakota Nursery & Landscape Association; Tennessee Nursery & Landscape Association; Lonestar Milk Producers; Plains Cotton Growers.

Select Milk Producers (TX); South Texas Cotton and Grain Association; Texas Agricultural Cooperative Council; Texas AgriWomen; Texas Association of Dairymen; Texas Cattle Feeders Association; Texas Citrus Mutual; Texas Cotton Ginners Association; Texas Grain Sorghum Producers Association; Texas Nursery & Landscape Association; Texas-Oklahoma Watermelon Association; Texas Poultry Federation; Texas

Produce Export Association; Texas Produce Association; Texas Turf Producers Association; Texas Vegetable Association; Western Peanut Growers; Utah Dairymen's Association; Utah Nursery & Landscape Association; Vermont Apple Marketing Board.

Vermont Association of Professional Horticulturists; Frederick County Fruit Growers' Association (Virginia); Northern Virginia Nursery & Landscape Association; Southwest Virginia Nursery & Landscape Association; Virginia Apple Growers Association; Virginia Christmas Tree Growers Association; Virginia Nursery and Landscape Association; Wasco County Fruit & Produce League; Washington Association of Wine Grape Growers; Washington Growers Clearing House Association; Washington Growers League; Washington Potato & Onion Association; Washington State Potato Commission; Washington State Nursery & Landscape Association; Washington Wine Institute; West Virginia Nursery and Landscape Association; Wisconsin Christmas Tree Growers Association; Wisconsin Nursery Association; Wisconsin Landscape Federation; Wisconsin Sod Producers Association.

Mr. LEAHY. Mr. President, once again I am pleased to join Senator FEINSTEIN to introduce the Agricultural Job Opportunities, Benefits, and Security Act AgJOBS. Senator FEINSTEIN has been pursuing these important reforms for several years now, and I commend her dedication to this legislation, and to America's farmers. I join her and the other cosponsors of this legislation in strong support of America's agricultural industry and the men and women who work hard every day to keep our farms running.

In Vermont, as in many States across the country, farmers are feeling the effects of a scarce labor pool. This problem is particularly acute for the dairy industry, where the employment needs are year-round and require a significant investment from the farmer in terms of training and development. I have long been concerned about the dairy farmers' difficulties in trying to use the agricultural visa program. It simply makes no sense that the visa program dedicated to agriculture cannot be used by such an important arm of the industry.

I have long advocated for the dairy-specific provisions in the AgJOBS bill. I worked to include these protections for dairy farmers during Congress's last two debates on comprehensive reform, and it is time for the immigration law to accommodate the legitimate needs of the Nation's dairy farmers. The AgJOBS bill will change this. It would give dairy farmers needing workers the opportunity to lawfully hire foreign workers who can remain with their employers for a meaningful period of time.

The AgJOBS legislation contains other important reforms that will help all of America's farmers. The creation of a blue card for undocumented agricultural workers who have been working to keep our farms running and fields planted and harvested is the right thing to do. It is a targeted and limited proposal that will serve to help farmers and farm workers. I have said before that no American farmer should

be forced to choose between his or her livelihood and obeying the law. In Vermont it is estimated that as many as 2000 undocumented workers work on dairy farms in the State. We can all agree that this is not an ideal situation—not for the farmer and not for the worker, and not for an overall immigration system that is in need of substantial repair.

By providing a mechanism for loyal undocumented foreign workers to come out of the shadows and into the sunlight of the protection of the law and the rights it will provide them, Congress can help begin a new day in American agriculture. No longer will farmers endure the waste and heartbreak of watching fields of crops rot for lack of workers to harvest. Workers will be able to contribute lawfully and openly to our Nation's agricultural industry, and integrate into their surrounding communities, adding to the fabric of our diverse American life. The need for this legislation is clear and present, and I hope that some who have stood in opposition to sensible immigration reform will recognize that hardworking farmers and their communities are as much the victims of their misguided obstructionism as are the immigrants they seek to punish. We will need the strong support in the Senate and from the Obama administration if we are to make these and other reforms to our immigration system. President Obama recognized the need for this legislation as a Senator when he was an original cosponsor last Congress. His leadership will be critical as we move forward.

Our bill contains other sensible provisions concerning the rights of workers, fair wages, and a streamlined process for farmers using the H-2A process. These are all important reforms that I am proud to support. Senator FEINSTEIN is committed to the Nation's farmers and those who work for them, and I am pleased to join her in support of these needed reforms.

Mr. SCHUMER. Mr. President, I also rise today in strong support of the Agricultural Jobs, Opportunity, Benefits, and Security Act of 2009, also known as AgJOBS.

The distinguished Senator from California has already eloquently explained what the AgJOBS bill is, what it seeks to accomplish and why America needs this Congress to pass AgJOBS as soon as possible.

I simply wish to briefly explain to the people of my home State of New York—as, their Senator—and to all of the American people, as chairman of the Senate Immigration Subcommittee, why I support AgJOBS and why I think they should support AgJOBS too.

Simply put, the status quo in our agricultural industry is unsustainable.

What is the status quo? All around my home State of New York, and across the country, family farmers are trying to do the right thing and operate lawful and successful farms.

Virtually every family farmer I have met in my travels across New York has aggressively tried to hire Americans to work in their nurseries, orchards, farms, and vineyards.

For instance, my friends in the Long Island Farm Bureau can tell you that more than half of their members pay more than \$12-\$15 per hour per worker, and actively seek to hire American workers, often arranging buses to recruit Americans into Long Island to work.

But what these family farmers are finding is that—even in this bad economy, even if they offer Americans twice or sometime three times the minimum wage and provide benefits—American workers simply won't stay in these jobs for more than a few days.

Why don't Americans want to stay in many of these agricultural jobs? Let me share with you the description of the working conditions for agricultural workers as provided by the Bureau of Labor Statistics in their 2008-2009 Occupational Outlook Handbook. Here is their description:

Much of the work of farmworkers and laborers on farms and ranches is physically strenuous and takes place outdoors in all kinds of weather.

Harvesting fruits and vegetables, for example, may require much bending, stooping, and lifting. Workers may have limited access to sanitation facilities while working in the field and drinking water may also be limited.

Farm work does not lend itself to a regular 40-hour workweek. Work cannot be delayed when crops must be planted or harvested or when animals must be sheltered and fed.

Long hours and weekend work is common in these jobs. For example, farmworkers and agricultural equipment operators may work 6- or 7-days a week during planting and harvesting seasons.

Many agricultural worker jobs are seasonal in nature, so some workers also do other jobs during slow seasons. Migrant farmworkers, who move from location to location as crops ripen, live an unsettled lifestyle, which can be stressful.

Farmworkers risk exposure to pesticides and other hazardous chemicals sprayed on crops or plants.

This is certainly not the description of a life most Americans would want for themselves, much less for their children. And so what the family farmers in New York experience is that even when Americans take these jobs, the vast majority quit after only a few days.

So who is stepping in to take many of these difficult agricultural jobs? Immigrants who need these jobs to support the families they left behind in their native country.

But the vast majority of the immigrants working in agricultural jobs are undocumented. For this reason, family farmers are often required to choose between hiring undocumented workers or going out of business.

AgJOBS solves this problem in a way that is fair to everyone.

AgJOBS requires current undocumented agricultural workers to pay a fine, pay their taxes, undergo thorough background checks, and legalize their status in order to keep their jobs. If

these workers refuse to legalize their status, or have any kind of criminal record, they will be deported.

AgJOBS provides America's family farmers with access to legal workers and removes the burden on farmers to perform the role of Federal immigration enforcement officials.

But just as importantly, AgJOBS places increased penalties on farmers who hire illegal aliens and places penalties on farmers who provide poor working conditions for their employees. This will make it far likelier that Americans who want these jobs will stay in these jobs for longer periods of time.

For this reason, AgJOBS is supported by hundreds of agriculture, business, labor, religious, and ethnic affinity groups.

It is my profound belief that Americans are pro-legal immigration and anti-illegal immigration, and will support policies that are consistent with this basic principle.

AgJOBS fits this description. It severely penalizes farmers who will continue to hire illegal immigrants and who choose to exploit their workers. But it also provides farmers with the ability to hire Americans and legal immigrants who will take these jobs.

The current situation is simply untenable. Every day, American farms are closing and America has to import more and more food from abroad because it is far cheaper to buy foreign food than it is to produce food here.

For every farmworker job we lose to another country, America loses three to four other American jobs in packaging, processing, supplies, equipment, and other related sectors.

Failure to pass AgJOBS will continue to result in devastating consequences for our economy.

In New York alone, the Farm Credit Association of New York estimates that if AgJOBS is not passed, New York State could lose in excess of 900 farms, \$195 million in value of agricultural production, and over 200,000 acres in production in agriculture over the next 24 months.

Finally, our national security is threatened when we no longer are able to ensure that we can sufficiently feed our people with American food. Without AgJOBS, we place our Nation's food security at risk from those who might seek to do harm to America.

This situation can and should be remedied. AgJOBS provides the remedy, and I am therefore proud to be an original cosponsor of AgJOBS and strongly support its passage.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 1041. A bill to amend the Oil Pollution Act of 1990 to modify the applicability of certain requirements to double hulled tankers transporting oil in bulk in Prince William Sound, Alaska; to the Committee on Commerce, Science, and Transportation.

Ms. MURKOWSKI. Mr. President, today I am introducing a bill, with my

colleague from Alaska Senator MARK BEGICH, that will require all oil laden tankers in Prince William Sound to be escorted by at least two towing vessels or other vessels considered appropriate by the Secretary of the Department of Homeland Security.

At 12:04 a.m. on March 24, 1989, the Exxon Valdez, carrying over 53 million gallons of crude oil, failed to turn back into the shipping lane after detouring to avoid ice, and ran aground on Bligh Reef. Alaskans will never forget that morning, waking up to hear about the worst oil spill and environmental disaster in U.S. history and living with the lasting impacts it has had on our State and residents.

The National Transportation Safety Board investigated the accident and determined probable causes for the accident. While it determined that it was primarily caused by human error of the captain and crew, it is my belief that we had also become complacent. It had been 12 years since we had begun to tanker oil out of Valdez and there had not been an incident. However, when the spill occurred, we became acutely aware of how woefully unprepared we were. The few prevention measures that were available were inadequate and the spill response and clean-up resources were seriously deficient. The oil eventually fouled some 1,300 miles of shoreline, stretching almost 500 miles, and covered an area of 11,000 square miles.

While the captain and crew were found at fault for the immediate cause of the spill, the incident also highlighted huge gaps in regulatory oversight of the oil industry. The response of Congress to the spill was passage of the Oil Spill Pollution Act of 1990 or OPA90. The law overhauled shipping regulations, imposed new liability on the industry, required detailed response plans and added extra safeguards for shipping in Prince William Sound. Since the law took effect, annual oil spills were greatly reduced and lawmakers, marine experts, the oil industry and environmentalists credit the law for major improvements in U.S. oil and shipping industries.

Oil spill prevention and response have been greatly improved in Prince William Sound since the passage of OPA90. The U.S. Coast Guard now monitors fully laden tankers all the way through Prince William Sound. Specially trained marine pilots ride the ships for 25 of the 70 mile journey through the Sound and there are weather criteria for safe navigation. Contingency plans, skimmers, dispersants, oil barges and containment booms are all now readily available. An advanced ice-detecting radar system is also in place to monitor the icebergs that flow off of the mighty Columbia Glacier.

Two escort tugs accompany each tanker while passing through the Sound and are capable of assisting the tanker in the case of an emergency. This world class safety system recently

saw the 11,000th fully loaded tanker safely escorted through Prince William Sound. It is estimated that if the Exxon Valdez would have been double-hulled, the amount of the spill would have been reduced by more than half. While double hulled tankers are a huge improvement over single hulls, they do not prevent oil spills.

The legislation that Senator BEGICH and I are introducing today will maintain the existing escort system in place for all tankers. Presently, the federal requirement that every loaded tanker be accompanied through the Sound by two tugs applies only to single-hulled tankers. Even though, right now, double-hulled tankers are escorted by two vessels, federal law does not require them to be. The last single hulled tanker in the Prince William Sound fleet is expected to be retired from service by August 2012 and our legislation ensures all double hulled tankers will always be escorted by two tugs.

Although there have been a number of marine incidents and near misses since the Exxon Valdez oil spill in 1989, over the past 20 years, through the efforts of the U.S. Coast Guard, industry, the State of Alaska, and the Prince William Sound Citizens Advisory Council to implement the requirements of OPA 90, there have been no major oil spills. Today, as a result, the marine transportation safety system established for Prince William Sound is regarded as among the most effective in the world. A key reason for that accomplishment is, in part, because of the safety benefits resulting from having dual escort vessels available to assist oil laden tankers transiting the Sound.

Section 4116 (c) of OPA 90 requires that single hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska be escorted by at least two towing vessels or other vessels considered appropriate by the Secretary.

Subsection (a) makes applicable to double hulled tankers the requirement in existing law including regulations in 33 CFR Part 168 issued to implement that dual escort vessel requirement for single hulled tankers. The subsection leaves the dual escort vessel requirement in place for single hulled tankers. By making those cited regulations applicable to double hulled tankers, the U.S. Coast Guard would not need to issue new regulations as a result of the amendment to section 4116(c) of OPA 90. Rather, the Secretary is authorized and directed to "carry out subparagraph (A)" by order without notice and hearing, and without issuing new regulations, under section 553 of title 5 of the U.S. Code.

The dual escort plan, as it was constituted and in effect as of March 1, 2009 for Prince William Sound, is described in a document entitled, "Vessel Emergency Response Plan" or "VERP", and is on file with the House Transportation and Infrastructure Committee and the Senate Commerce,

Science, and Transportation Committee.

It is envisioned that, as advancements in technology are made in the future, any appropriate and warranted modifications to the VERP cited above implementing the dual escort practice as in effect as of March 1, 2009 and implementing the dual escort requirement in this section, including implementing regulations, will be made by the Prince William Sound Tanker Owners/Operators in consultation with the U.S. Coast Guard, the State of Alaska, and the PWSRCAC and ratified and endorsed by the U.S. Coast Guard before being implemented.

The success of this escort system over the past 20 years has shown us that it must not be compromised. We cannot forget the lessons of the Exxon Valdez oil spill and allow ourselves to become complacent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1041

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DUAL ESCORT VESSELS FOR DOUBLE HULLED TANKERS IN PRINCE WILLIAM SOUND, ALASKA.**

(a) IN GENERAL.—Section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note; Public Law 101-380) is amended—

(1) by striking "Not later than 6 months" and inserting the following:

"(1) IN GENERAL.—Not later than 180 days"; and

(2) by adding at the end the following:

"(2) PRINCE WILLIAM SOUND, ALASKA.—

"(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

"(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the Federal agency with jurisdiction over the Coast Guard shall carry out subparagraph (A) by order without notice and hearing pursuant to section 553 of title 5 of the United States Code."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 90 days after the date of enactment of this Act.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mrs. GILLIBRAND, and Mr. REED):

S. 1048. A bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants; to the

Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise to introduce a bill, the Menu Education and Labeling Act, on behalf of myself and my colleagues, Senator KENNEDY of Massachusetts, Senator REED of Rhode Island, and Senator GILLIBRAND of New York.

It is by now well established that poor diet and obesity, as well as related conditions such as heart disease, have reached epidemic levels. The majority of the U.S. population is either overweight or obese. The incidence of type II diabetes has reached levels not even imaginable 20 years ago, with some research suggesting that one in three children will develop the disease by adulthood.

There is no single solution to this complex issue of poor nutrition and diet related diseases. Policymakers looking for a silver bullet will be disappointed. But inaction is not an option. We must start taking meaningful steps to address this growing problem by giving people the tools necessary to live healthier lifestyles. That is why my colleagues and I are introducing this bill today to extend nutrition labeling beyond packaged foods to include foods at chain restaurants with 20 or more locations, as well as food in vending machines. This common-sense idea will give consumers a needed tool to make wiser choices and achieve a healthier lifestyle. It is a positive step toward addressing the obesity epidemic.

In 1990, Congress passed the Nutrition Labeling and Education Act, NLEA, requiring food manufacturers to provide nutrition information on nearly all packaged foods. The impact has been tremendous. Not only do nearly three-quarters of adults use the food labels on packaged foods, but studies indicate that consumers who read labels have healthier diets.

Unfortunately, when Congress first passed the NLEA, it excluded restaurants from any labeling requirements. Since that time, restaurants have become more and more important to Americans' diet and health. Americans consume a third of their calories and spend half of their food dollars at restaurants at the very time when nutrition and health experts say that rising caloric consumption and growing portion sizes are causes of obesity. We also know that when children eat in restaurants, they consume twice as many calories as when they eat at home. Consumers say that they would like nutrition information provided when they order their food at restaurants, yet, while they have good nutrition information in supermarkets, at restaurants they can only guess.

In recent years, some states and cities have led the way on menu labeling. New York City has already implemented a menu labeling initiative that requires the disclosure of calories on menus and menu boards at chain restaurants. Consumer surveys show that

the residents of New York are enthusiastic about the initiative. The experience in New York has also underscored the feasibility and practicality of the endeavor. Despite earlier concerns about implementation, the vast majority of restaurants in New York City complied with the law quickly and without incident. Those with particular challenges were assisted by the New York City Health Department to enable them to comply with the law.

But New York City is not the only such initiative. Other cities such as Philadelphia, Seattle, Portland, and San Francisco have followed suit. Just last fall, the State of California became the first State in the Nation to enact a statewide menu labeling law, and Massachusetts became the second yesterday. Clearly there is not only a public health rationale for menu labeling, but consumer demand as well.

As I already stated, I harbor no illusions that any one policy will turn the tide on obesity and poor diet in our country, but if we are ever to reorient our society and our health care system in the U.S. away from treatment and towards a stronger focus on prevention, we must build prevention into the very fabric of society. We must provide consumers with the tools and the support that they need to make the healthy choice the right choice. The MEAL Act is one means by which to accomplish that goal, and I urge my colleagues to join me in supporting this important legislation.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. KOHL, and Mr. LEVIN)):

S. 1050. A bill—amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, I rise today—with my colleagues Congresswoman ROSA DE LAURO and Congresswoman ALYSON SCHWARTZ—to introduce the Informed Consumer Choices in Health Care Act, legislation to hold insurance companies accountable by increasing transparency in insurance coverage and to provide consumers critical information about their health care so they can make informed decisions.

All Americans deserve affordable, meaningful health care coverage that meets their needs when they need it. However, there is an unsettling trend in America that is growing at an alarming rate—hardworking Americans are suffering from serious economic hardship because of medical bills. There countless consumers all

across the country who thought they were safe because they had health insurance coverage. Health insurance is meant to protect against the risk that, if you get sick, severely injured or require extensive medical care for one reason or another, it would not bankrupt you. However, the exact opposite is happening. People who thought they had coverage for health care events—small and large—found out much too late that they were not protected at all. The lack of insurance transparency leads consumers to purchase coverage that actually does not meet their needs and leads to disaster for them financially.

In June 2008, the Senate Finance Committee held a hearing on health insurance reform where we heard devastating testimony from Mrs. Lisa Kelly, who purchased a limited benefit plan that did not provide adequate coverage when she needed treatment for leukemia. Mrs. Kelly paid a monthly premium of \$185 for AARP's Medical Advantage plan, underwritten by UnitedHealth Group, only to be told that she had to pay M.D. Anderson \$105,000 up front, prior to starting her chemotherapy treatment. This situation left Ms. Kelly in the untenable situation of leaving her cancer untreated or finding a way to pay on a limited budget.

Medical bills are the second highest cause of bankruptcy in our country. It is estimated that 50 percent of all bankruptcies are a result of medical expenses. Sixty-one percent of the 72 million adults under age 65 who had problems paying medical bills or were paying off medical debt in 2007 were insured at the time health care was provided. An additional 1.5 million families lose their homes every single year due to medical costs. This is simply unacceptable.

This is not just a coincidence. Plans that provide bare-bones coverage may be fine if you live in a bubble, but that is not the reality most Americans live in. If we as a nation are serious about protecting all Americans from the devastating financial consequences of serious illness, then Congress must hold the insurance industry accountable by arming consumers with comprehensive information about the benefits covered and not covered under their health plan, the true cost of their coverage, and the cost-sharing they are responsible for. This information should not be shrouded in the legalese of health insurance companies, but in clear language that is easy for consumers to understand. As we seek to give consumers greater coverage choices, we should also give them the necessary tools to understand those choices.

Another example of where the lack of insurance transparency has hurt consumers is in the experience of the Medicare prescription drug benefit. Seniors and individuals with disabilities have simply been overwhelmed by the number of prescription drug plans offered—without any meaningful way

to decipher the differences between plans in terms of benefits covered or cost-sharing. Over the last recess, I held a health care roundtable discussion in Charleston, which has more than 50 Medicare prescription drug plans for seniors and individuals with disabilities to choose from. I heard from countless West Virginians about the extreme difficulty they have wading through their prescription drug coverage options each and every plan year. The most compelling stories came from a retired chemical engineer and a retired attorney—both very smart individuals—who have had major problems determining what is and is not offered and how much they will have to pay out of their pockets for it.

When consumers buy cars, computers, or even cereal, they generally know what they are buying and how much it will cost. But, when it comes to making choices about health care coverage, it is often very difficult for consumers to tell what is actually covered and how much they will have to pay out-of-pocket in case of a serious illness or injury. Consumers cannot make meaningful choices if details about coverage are obscure or if the definitions of key terms such as “hospitalization”, “outpatient care”, or “out-of-pocket limit” vary from plan to plan.

The lack of health insurance transparency also contributes to administrative waste and complexity. According to the American Medical Association, more than half of health insurers do not provide physicians with the transparency necessary for an efficient claims processing system. Physicians and hospitals must divert substantial resources away from patient care to accurately determine patient insurance eligibility and benefit structure.

The black box in which insurers operate also provides them with the opportunity to use flawed payment structures, like the Ingenix database, to underpay patients who choose to get health care out of network. An investigation by the New York Attorney General and hearings conducted this spring by the Senate Commerce Committee revealed American consumers have been paying billions of dollars out of their own pockets for health care that the insurance companies should have been paying. The numbers the insurance industry relied on justify these under-payments came from a secretive health care data company called Ingenix. Insurers refused to tell patients or doctors how Ingenix came up with their payment amounts. And they didn't disclose that Ingenix was a wholly owned subsidiary of UnitedHealth Group, the Nation's second largest health insurance company. The Ingenix investigations show that the health insurance industry is willing to go to great lengths to withhold accurate, objective health care payment information from American consumers. While they talk about transparency, they spent hundreds of millions of dollars

creating a reimbursement system that kept patients and doctors in the dark.

The U.S. Department of Labor currently lacks the capacity to oversee insurance industry compliance with federal health insurance laws and to provide states with the technical assistance necessary to effectively enforce federal standards for health insurance. These federal standards include crucial protections like the Genetic Information and Nondiscrimination Act, GINA, the Health Insurance Portability and Accountability Act, HIPAA, the Newborns' and Mothers' Health Protection Act, the Women's Health and Cancer Rights Act of 1998, Michelle's Law, and mental health parity. As states continue to be overwhelmed by the increasing pressure of the recession and cost-cutting measures by insurers, state regulators are in desperate need for additional resources. In a 21st Century health system where there will be even greater health insurance choices, adequate federal oversight is absolutely critical.

There is no excuse for limiting access to information that has such widespread consequences for consumers. The Informed Consumer Choices in Health Care Act is the type of transformative legislation we need to address the very significant issues stemming from the lack of health insurance transparency. First, this legislation promotes transparency in coverage by providing crucial data and assistance to consumers and health care providers. This includes new "Coverage Facts" labels for insurance, similar to nutrition labels, which accurately portray the financial obligations of patients in a given year under various medical scenarios. The legislation also requires the development of consistent standards for insurance, including standard definitions of key insurance terms to be used in descriptions of plan benefits, so that consumers can make "apples to apples" comparisons of coverage options. Lastly, it strengthens insurance accountability and oversight by creating a new Office of Health Insurance Oversight within the Department of Health and Human Services, and provides new resources for states to help enforce federal standards.

In the most recent Presidential election, the voice of American voters was clear—they want medical care they can afford and health care coverage they can trust. The traditional role of insurers to hide or misrepresent insurance coverage options can no longer be tolerated; therefore, I urge my colleagues to stand up for informed consumer decisions in health care and support this bill.

Mr. President, I ask unanimous consent that the text of the bill and support material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1050

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Informed Consumer Choices in Health Care Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. New minimum Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage.

Sec. 4. Health Insurance accountability initiatives.

Sec. 5. Health insurance transparency initiatives.

Sec. 6. Office of Health Insurance Oversight.

Sec. 7. Standards and accountability and transparency initiatives for group health plans through Departments of Labor and the Treasury.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Effective competition in private health insurance markets requires that consumers must have extensive and meaningful information about what health insurance covers, what it costs, and how it works.

(2) Based on the information currently provided by health insurers, patients are unable to predict what their health insurance coverage limits or out-of-pocket costs would be if they had a serious illness. 72 million adults under age 65 had problems paying medical bills or were paying off medical debt in 2007, and 61 percent of those were insured at the time care was provided.

(3) It is difficult to impossible for consumers to obtain a copy of a health insurance policy from an insurance company before they purchase it.

(4) Consumers often find it difficult to navigate and evaluate their choices in today's health insurance markets and many select a sub-optimal plan as a result.

(5) The Institute of Medicine of the National Academy of Sciences has estimated that nearly half of all American adults—90 million people—have difficulty understanding and using health information.

(6) The Office of Disease Prevention and Health Promotion in the Department of Health and Human Services reports that only 12 percent of the population using a table can calculate an employee's share of health insurance costs for a year.

(7) A RAND Corporation study found that making it easier to get information about insurance products and simplifying the applications process would increase purchase rates as much as modest subsidies would, and all these reports prove the need for a fundamental improvement in the way insurance choices are made available to consumers.

(8) Insurance forms provided to patients and providers are often confusing, difficult to reconcile with medical bills, and vary widely from insurer to insurer, thereby adding complexity and administrative waste to the health care system.

(9) Research indicates that physicians divert substantial resources, as much as 14 percent of their total revenue, to ensure accurate insurance payments for their services. Hospitals spend as much as 11 percent of their total revenue on billing and insurance-related costs. These include time spent determining patient insurance eligibility and benefit structure. One study found that paperwork adds at least 30 minutes to every hour of patient care.

(10) According to the American Medical Association, there is wide variation in how often health insurers pay nothing in re-

sponse to a physician claim and in how they explain the reason for the denial. There is no consistency in the application of codes used to explain the denials, making it extremely expensive for physician practices to determine how to respond.

(11) According to the American Medical Association, more than half of health insurers in a recent study did not provide physicians with the transparency necessary for an efficient claims processing system.

(12) According to the American Medical Association, payers vary widely on how often they use proprietary rather than public claims edits to reduce payments (ranging from zero to as high as nearly 72 percent). The use of undisclosed proprietary edits inhibits the flow of transparent information to physicians, adding additional administrative costs to reconcile claims.

(13) The Federal government currently lacks capacity to carry out responsibility for oversight and enforcement of current law requirements on health insurance issuers and to provide States with technical assistance in effectively enforcing Federal minimum standards for health insurance.

(14) In order to improve the functioning of the private health insurance market, assure the application of existing requirements to health insurance coverage, and reduce administrative hassles for patients and providers, there is a need for periodic examinations and audits of such coverage, for greater disclosure of information regarding the terms and conditions of such coverage, and for the establishment of a Federal oversight office to ensure enforcement of standards.

#### SEC. 3. NEW MINIMUM FEDERAL STANDARDS FOR HEALTH INSURANCE FORMS, QUALITY, FAIR MARKETING, AND HONESTY IN OUT-OF-NETWORK COVERAGE.

(a) GROUP HEALTH INSURANCE.—Title XXVII of the Public Health Service Act is amended by inserting after section 2707 the following new section:

##### "SEC. 2708. STANDARDS FOR HEALTH INSURANCE FORMS, QUALITY, FAIR MARKETING, AND HONESTY IN OUT-OF-NETWORK COVERAGE.

"(a) DEFINING INSURANCE TERMS; STANDARDIZING INSURANCE FORMS.—

"(1) IN GENERAL.—The Secretary shall provide for the development of standards for the information that health insurance issuers are required to provide to group health plans to promote informed choice of health insurance coverage by such plans.

"(2) STANDARD DEFINITIONS OF INSURANCE AND MEDICAL TERMS.—

"(A) IN GENERAL.—The Secretary shall provide for the development of standards for the definitions of terms used in group health insurance coverage, including insurance-related terms (including the insurance-related terms described in subparagraph (B)) and medical terms (including the medical terms described in subparagraph (C)).

"(B) INSURANCE-RELATED TERMS.—The insurance-related terms described in this subparagraph are premium, deductible, co-insurance, co-payment, out-of-pocket limit, preferred provider, non-preferred provider, out-of-network co-payments, UCR (usual, customary and reasonable) fees, excluded services, grievance and appeals, and such other terms as the Secretary determines are important to define so that consumers may compare health insurance coverage and understand the terms of their coverage.

"(C) MEDICAL TERMS.—The medical terms described in this subparagraph are hospitalization, hospital outpatient care, emergency room care, physician services, prescription drug coverage, durable medical equipment, home health care, skilled nursing care, rehabilitation services, hospice

services, emergency medical transportation, and such other terms as the Secretary determines are important to define so that consumers may compare the medical benefits offered by insurance health insurance and understand the extent of those medical benefits (or exceptions to those benefits).

“(3) STANDARDIZATION OF INSURANCE FORMS.—The Secretary shall provide for the development of standards for the forms used in connection with group health insurance coverage, including for—

“(A) applications for health insurance coverage;

“(B) explanations of benefits for such coverage;

“(C) filing of complaints, grievances, and appeals respecting such coverage; and

“(D) other common functions relating to such coverage as the Secretary deems appropriate.

“(4) COVERAGE FACTS LABELS FOR PATIENT CLAIMS SCENARIOS.—The Secretary shall develop standards for coverage facts labels based on the patient claims scenarios described in section 2794(b)(4), which include information on estimated out-of-pocket cost-sharing and significant exclusions or benefit limits for such scenarios.

“(5) PERSONALIZED STATEMENT.—The Secretary shall develop standards for an annual personalized statement that summarizes use of health care services and payment of claims with respect to an enrollee (and covered dependents) under group health insurance coverage in the preceding year.

“(6) APPLICATION OF STANDARDS.—No group health insurance coverage may be offered for sale after the date that is two years after date of the enactment of this section unless—

“(A) the benefits and other terms of coverage are consistent with the definitional standards developed under paragraph (2);

“(B) the application and form of coverage and related forms are consistent with the standardized forms developed under paragraph (3); and

“(C) there is provided coverage facts labels described in paragraph (4) with respect to the coverage.

“(7) PERIODIC REVIEW AND UPDATING.—The Secretary shall periodically review and update, as appropriate, the standards developed under this subsection.

“(8) EVALUATION OF INFORMATION RESOURCES.—In developing, reviewing, and updating standards under this subsection, the Secretary shall provide for testing and evaluation of information resources in general and to specific audiences including those with low literacy skills.

“(9) CONSULTATION.—In developing reviewing, and updating standards under this subsection, the Secretary shall consult with, among others, the National Association of Insurance Commissioners, health care professionals, researchers, health insurance issuers, group health plans, patient advocates, and literacy experts.

“(b) QUALITY ASSURANCES FOR HEALTH INSURANCE.—

“(1) IN GENERAL.—The Secretary shall provide for the development of standards to assure the quality of benefits under group health insurance coverage. Such standards shall include standards relating to at least—

“(A) network adequacy and stability;

“(B) guaranteed coverage for one year of contracted benefits;

“(C) adequacy and stability of prescription drug networks;

“(D) utilization control systems; and

“(E) grievances and appeals.

“(2) APPLICATION OF PROVISIONS.—The provisions of paragraphs (5) through (9) of subsection (a) apply to standards developed under this subsection in the same manner as

such provisions apply to standards developed under subsection (a).

“(c) MARKETING.—

“(1) IN GENERAL.—The Secretary shall provide for the development of standards for the marketing of group health insurance coverage. Such standards shall include standards for at least—

“(A) marketing materials; and

“(B) sales commissions.

“(2) NONDISCRIMINATION.—No group health insurance coverage may be offered for sale after the date that is two years after date of the enactment of this section unless the issuer provides the Secretary with a written certification that all marketing materials, seminars, and other outreach efforts in connection with the offering of such coverage do not discriminate on the basis of income, race, gender, ethnicity, or other demographic factors as determined by the Secretary.

“(3) APPLICATION OF PROVISIONS.—The provisions of paragraphs (7) through (9) of subsection (a) apply to standards developed under this subsection in the same manner as such provisions apply to standards developed under subsection (a).

“(d) HONESTY IN COVERAGE OF OUT-OF-NETWORK PROVIDERS.—The Secretary shall provide for the development of standards for the accuracy and clarity of coverage for out-of-network providers, including cost sharing and payments to such providers, for health insurance issuers in group health insurance coverage that provide such coverage.”

(b) APPLICATION IN THE INDIVIDUAL MARKET.—Such title is further amended by inserting after section 2745 the following new section:

**“SEC. 2746. STANDARDS FOR HEALTH INSURANCE INSURANCE FORMS, QUALITY, FAIR MARKETING, AND HONESTY IN OUT-OF-NETWORK COVERAGE.**

“The provisions of section 2708 shall apply under this part to individual health insurance coverage and enrollees in such coverage in the same manner as such provisions apply under part A in the case of group health insurance coverage and group health plans and participants and beneficiaries.”

(c) APPLICATION TO THE MEDICARE ADVANTAGE PROGRAM AND THE MEDICARE PRESCRIPTION DRUG PROGRAM.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1852 of the Social Security Act (42 U.S.C. 1395w-22) is amended by adding at the end the following new subsection:

“(m) STANDARDS FOR HEALTH INSURANCE FORMS, QUALITY, FAIR MARKETING, AND HONESTY IN OUT-OF-NETWORK COVERAGE.—The provisions of section 2708(a) of the Public Health Service Act shall apply to Medicare Advantage organizations, Medicare Advantage plans, and enrollees in such plans in the same manner as such provisions apply under such section to group health insurance coverage and group health plans and participants and beneficiaries.”

(2) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D-4 of the Social Security Act (42 U.S.C. 1395w-104) is amended by adding at the end the following new subsection:

“(m) STANDARDS FOR HEALTH INSURANCE FORMS, QUALITY, FAIR MARKETING, AND HONESTY IN OUT-OF-NETWORK COVERAGE.—The provisions of section 2708(a) of the Public Health Service Act shall apply to PDP sponsors, prescription drug plans, and enrollees in such plans in the same manner as such provisions apply under such section to group health insurance coverage and group health plans and participants and beneficiaries.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after the date that is 2 years after the date of the enactment of this Act.

(d) APPLICATION TO FEHBP.—The provisions of section 2708(a) of the Public Health Service Act shall apply to the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code, and to contractors, health plans, and enrollees in such plans in the same manner as such provisions apply under such section to group health insurance coverage and group health plans and participants and beneficiaries.

**SEC. 4. HEALTH INSURANCE ACCOUNTABILITY INITIATIVES.**

(a) IMPROVED HEALTH INSURANCE ACCOUNTABILITY.—Title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

**“SEC. 2793. ACCOUNTABILITY INITIATIVES.**

“(a) IN GENERAL.—The Secretary, acting through the Office of Health Insurance Oversight established under section 2795, shall undertake activities in accordance with this section to promote accountability of health insurance issuers in meeting Federal health insurance requirements, regardless of whether this relates to health insurance in the individual or group market.

“(b) COMPLIANCE EXAMINATIONS AND AUDITS.—

“(1) IN GENERAL.—Without regard to whether or not there is a determination under section 2722(a)(2) or 2761(a)(2) with respect to a health insurance issuer, in carrying out this section, the Secretary shall conduct independent market conduct examinations and audits to monitor and verify the compliance of an health insurance issuer with Federal health insurance requirements. Such audits may include random compliance audits and targeted audits in response to complaints or other suspected non-compliance.

“(2) RECOUPMENT OF COSTS.—In connection with such examinations and audits, the Secretary is authorized to recoup from health insurance issuers reimbursement for the costs of such examinations and audits of such issuers.

“(3) RELATION TO OTHER AUTHORITY.—The authorities under this section are in addition to any authorities of the Secretary, including authorities under sections 2722(b) and 2761(b).

“(c) DATA COLLECTION AND REVIEW.—

“(1) IN GENERAL.—The Secretary shall collect and review data from health insurance issuers on health insurance coverage to monitor compliance with Federal health insurance requirements applicable to such issuers and coverage. Upon request by the Secretary, such issuers shall provide such data to the Secretary on a timely basis.

“(2) ELEMENTS TO REVIEW.—In carrying out this subsection, the Secretary shall review at least the following:

“(A) Underwriting guidelines to ensure compliance with applicable Federal health insurance requirements.

“(B) Rating practices to ensure compliance with such requirements.

“(C) Enrollment and disenrollment data, including information the Secretary may need to detect patterns of discrimination against individuals based on health status or other characteristics, to ensure compliance with such requirements (including nondiscrimination in group coverage, guaranteed issue, guaranteed renewability requirements applicable in all markets).

“(D) Post-claims underwriting and rescission practices to ensure compliance with such requirements relating to guaranteed renewability.

“(E) Marketing materials and agent guidelines to ensure compliance with applicable Federal health insurance requirements.

“(F) Data on the imposition of pre-existing condition exclusion periods and claims subjected to such exclusion periods.

“(G) Information on issuance of certificates of creditable coverage.

“(H) Information on cost-sharing and payments with respect to any out-of-network coverage.

“(I) Such other information as the Secretary may determine to be necessary to verify compliance with requirements of this title.

“(J) The application to issuers of penalties for violation of such requirements, including the failure to produce requested information.

“(3) TREATMENT OF PROPRIETARY INFORMATION.—The Secretary may request under this subsection information that is proprietary or that reveals a trade secret, but such information shall not be subject to further disclosure to the general public in a manner that reveals proprietary information or a trade secret.

“(4) FORM AND MANNER OF INFORMATION.—Information under paragraph (1) shall be provided—

“(A) in a form and manner specified by the Secretary; and

“(B) within 30 days of the date of receipt of the request for the information, or within such longer time period as the Secretary deems appropriate.

“(5) ENFORCEMENT.—The Secretary shall have the same authority in relation to enforcement of requests for data under paragraph (1) as the Secretary has under section 2722(b).

“(6) COORDINATION WITH STATES.—

“(A) IN GENERAL.—The Secretary shall coordinate with State insurance regulators so that data with respect to health insurance issuers and coverage are collected and reported in a common format.

“(B) CLEARINGHOUSE.—The Secretary shall establish a clearinghouse for the sharing of data reported by health insurance issuers and for the findings from audits and investigations. Such clearinghouse may be established in conjunction with the National Association of Insurance Commissioners.

“(7) COORDINATION WITH DEPARTMENTS OF LABOR AND TREASURY.—The Secretary shall coordinate with the Secretaries of Labor and Treasury with respect to requirements to report data that affect health insurance coverage sold in connection with group health plans.

“(d) HEALTH INSURANCE ACCOUNTABILITY GRANTS TO STATES.—

“(1) IN GENERAL.—The Secretary shall provide for grants to Departments of Insurance in States to strengthen their enforcement of Federal health insurance requirements with respect to health insurance issuers operating in such States. Such a grant shall only be made pursuant to an application made to the Secretary.

“(2) FUNDING.—

“(A) IN GENERAL.—Of the funds appropriated under subparagraph (B) for grants under this subsection, the Secretary shall provide a grant to each State with an application approved under paragraph (1).

“(B) ALLOCATION.—Funds so appropriated for any fiscal year shall be apportioned among the States in accordance with a formula determined by the Secretary that takes into account the scope of health insurance subject to regulation under this title in each State and such other factors as the Secretary may specify.

“(C) APPROPRIATIONS AND AUTHORIZATIONS.—There is hereby appropriated, out of any funds in the Treasury not otherwise appropriated for the first fiscal year in which this section is in effect, \$10,000,000 for grants under this subsection, to be available until expended. For each subsequent fiscal year there is authorized to be appropriated such sums as may be necessary for such grants.

“(e) FEDERAL HEALTH INSURANCE REQUIREMENTS DEFINED.—In this part, the term ‘Federal health insurance requirements’ means the requirements under this title insofar as they relate to health insurance issuers and health insurance coverage, whether in the individual or group market, and includes other requirements imposed under Federal law specifically in relation to the offering of health insurance coverage by health insurance issuers.”.

#### SEC. 5. HEALTH INSURANCE TRANSPARENCY INITIATIVES.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as amended by section 3, is further amended by adding at the end the following new section:

##### “SEC. 2794. TRANSPARENCY INITIATIVES.

“(a) IN GENERAL.—The Secretary, acting through the Office of Health Insurance Oversight established under section 2795, shall undertake activities in accordance with this section to promote transparency in costs, market practices, and other factors for health insurance coverage, regardless of whether the coverage is offered or in effect in the individual or group market.

“(b) DEVELOPMENT AND DISCLOSURE OF STANDARDIZED INFORMATION.—

“(1) IN GENERAL.—In carrying out this section, the Secretary shall provide for the development of—

“(A) standards for information about health insurance issuers, their health insurance policies, and their market practices with respect to such policies; and

“(B) standards for the disclosure of such information in a timely, consistent, and accurate manner by health insurance issuers about each health insurance policy marketed and in force.

“(2) INFORMATION TO BE DISCLOSED.—

“(A) IN GENERAL.—In carrying out this section, the Secretary shall require health insurance issuers to disclose to enrollees, potential enrollees, in-network health care providers, and others through a publicly available Internet website and other appropriate means at least the following concerning each policy of health insurance coverage marketed or in force, in such standardized manner as the Secretary specifies:

“(i) Full policy contract language.

“(ii) A summary of the information described in paragraph (3).

“(iii) For each of the scenarios developed under paragraph (4), the coverage facts label information developed under section 2709(a)(4).

“(B) PERSONALIZED STATEMENT.—In carrying out this section, the Secretary shall require health insurance issuers to disclose to enrollees, in such standardized manner as the Secretary specifies, an annual personalized statement described in section 2708(a)(5).

“(3) INFORMATION TO BE DISCLOSED.—The information described in this paragraph is at least the following:

“(A) Data on the price of each new policy of health insurance coverage and renewal rating practices.

“(B) Information on claims payment policies and practices, including how many and how quickly claims were paid.

“(C) Information on provider fee schedules and usual, customary, and reasonable fees (for both network and out-of-network providers).

“(D) Information on provider participation and provider directories.

“(E) Information on loss ratios, including detailed information about amount and type of non-claims expenses.

“(F) Information on covered benefits, cost-sharing, and amount of payment provided toward each type of service identified as a covered benefit, including preventive care serv-

ices recommended by the United States Preventive Services Task Force.

“(G) Information on civil or criminal actions successfully concluded against the issuer by any governmental entity.

“(H) Benefit exclusions and limits.

“(4) DEVELOPMENT OF PATIENT CLAIMS SCENARIOS.—

“(A) IN GENERAL.—In order to improve the ability of individuals and group health plans to compare the coverage and value provided under different health insurance coverage, the Secretary shall develop a series of patient claims scenarios under which benefits (including out-of-pocket costs) under such coverage can be simulated for certain common or expensive conditions or courses of treatment, such as maternity care, breast cancer, heart disease, diabetes management, and well-child visits.

“(B) CONSULTATION AND BASIS.—The Secretary shall develop the scenarios under this paragraph—

“(i) in consultation with the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, health professional societies, patient advocates, and others as deemed necessary by the Secretary; and

“(ii) based upon recognized clinical practice guidelines.

“(5) MANNER OF DISCLOSURE.—

“(A) IN GENERAL.—The standards under paragraph (1)(B) shall provide for health insurance issuers to disclose the information under this subsection—

“(i) with all marketing materials;

“(ii) on the web site of the issuer; and

“(iii) at other times upon request.

“(B) CONTRACT LANGUAGE.—Such standards also shall require the disclosure of full policy contract language in printed form upon request.

“(C) APPLICATION OF ENFORCEMENT PROVISIONS.—The provisions of sections 2722 and 2671 shall apply to enforcement of the requirements of this section in the same manner as such provisions apply to the provisions of part A or part B, respectively. Under such provisions the States shall have initial (and primary) enforcement authority with respect to such requirements, except that the Secretary under section 2793 may directly monitor compliance with such provisions as well.”.

(b) CONFORMING AMENDMENTS REGARDING DISCLOSURE OF INFORMATION.—

(1) REFERENCE IN THE GROUP MARKET.—Section 2713 of the Public Health Service Act (42 U.S.C. 300gg-13) is amended by adding at the end the following new subsection:

“(c) REFERENCE TO DISCLOSURE OF INFORMATION.—For provision requiring disclosure of information by health insurance issuers, see section 2794(d).”.

(2) REFERENCE IN THE INDIVIDUAL MARKET.—Section 2761 of the Public Health Service Act is amended by adding at the end the following new subsection:

“(c) REFERENCE TO DISCLOSURE OF INFORMATION.—For provision requiring disclosure of information by health insurance issuers, see section 2794(d).”.

#### SEC. 6. OFFICE OF HEALTH INSURANCE OVERSIGHT.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as amended by sections 3 and 4, is amended by adding at the end of part C the following new section:

##### “SEC. 2795. OFFICE OF HEALTH INSURANCE OVERSIGHT.

“(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of Health Insurance Oversight (referred to in this section as the ‘Office’). The Office shall be headed by a Director of Health Insurance Oversight (referred

to in this section as the ‘Director’) who shall be appointed by and report directly to the Secretary.

“(b) DUTIES.—

“(1) PROMOTION OF ACCOUNTABILITY IN HEALTH INSURANCE.—

“(A) IN GENERAL.—The Director shall implement accountability initiatives under section 2793.

“(B) CLEARINGHOUSE.—The Director shall provide, in consultation with the National Association of Insurance Commissioners, for a clearinghouse for State health insurance regulators to share information concerning, and help them to enact and enforce, Federal health insurance requirements.

“(2) PROMOTE TRANSPARENCY IN HEALTH INSURANCE.—The Director shall implement transparency initiatives under section 2794.

“(3) CONSUMER INFORMATION, ASSISTANCE.—

“(A) IN GENERAL.—The Director shall provide for consumer information assistance on health insurance coverage, and Federal health insurance consumer protections under this title, including through carrying out activities under this paragraph.

“(B) INFORMATION RESOURCES.—The Director shall develop health insurance information resources for consumers, including coverage facts labels for patient claims scenarios developed under section 2794(b)(4) and web-based information on average price ranges for out-of-network services based on geography.

“(C) SERVICE.—The Director shall establish a consumer assistance service that, directly or in coordination with State health insurance regulators and consumer assistance organizations, receives and responds to inquiries and complaints concerning health insurance coverage with respect to Federal health insurance requirements and under State law.

“(4) HEALTH INSURANCE CONSUMER ASSISTANCE GRANTS.—

“(A) IN GENERAL.—The Director shall provide for grants to public, private or not-for-profit consumer assistance organizations to develop, support, and evaluate consumer assistance programs related to selecting and navigating health care coverage. Such a grant shall only be made pursuant to an application made to the Director. In making such grants, the Director shall attempt to ensure regional and geographic equity.

“(B) GRANT REQUIREMENT.—As a condition of receiving such a grant, an organization shall be required to collect and report data to the Director on the types of problems and inquiries encountered by consumers they serve. Data shall be used by the Director to inform enforcement activities and be shared with State insurance regulators, the Department of Labor, and the Secretary of the Treasury.

“(C) APPROPRIATIONS AND AUTHORIZATIONS.—There is hereby appropriated, out of any funds in the Treasury not otherwise appropriated for the first fiscal year in which this section is in effect, \$30,000,000 for grants under this paragraph, to be available until expended. For each subsequent fiscal year there are authorized to be appropriated such sums as may be necessary for such grants.

“(5) ADMINISTRATION OF HIGH RISK POOL.—The Director shall administer the high risk pool program under section 2745.

“(6) ADMINISTRATION OF GRANTS TO STATE INSURANCE DEPARTMENTS.—The Director shall administer the program of grants to State insurance departments under section 2793(d).

“(c) PERIODIC REPORTS.—The Director shall submit periodic reports to Congress on the Office’s activities.

“(d) COORDINATION.—

“(1) FEDERAL OFFICIALS.—The Director shall coordinate, with the Secretaries of Labor and Treasury, activities under this section with respect to requirements that affect health insurance coverage offered in connection with group health plans, including coordination in —

“(A) development and dissemination of information; and

“(B) consumer inquiries and complaints relating to Federal health insurance requirements.

“(2) STATE HEALTH INSURANCE REGULATORS.—In carrying out the Office’s activities, the Director shall—

“(A) coordinate with State health insurance regulators regarding data collection and disclosure and audit and enforcement activities in order to avoid duplication and to use regulatory resources most efficiently;

“(B) monitor State efforts to implement and enforce consumer protections consistent with Federal health insurance requirements;

“(C) provide technical assistance to States seeking to implement and enforce consumer protections consistent with such requirements; and

“(D) provide for regular communication with such regulators to coordinate enforcement efforts and sharing of information

“(e) TRANSFER OF PERSONNEL AND RESOURCES.—The Secretary shall provide for the transfer to the Office of those personnel and resources within the Department of Health and Human Services that, as of the date of the enactment of this section, relate directly to the responsibilities of the Director under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under subsection (b)(4)(C), there are authorized to be appropriated to carry out this section

\$20,000,000 for the first fiscal year beginning after the date of the enactment of this section and such sums as may be necessary for subsequent fiscal years.”.

(b) CONFORMING AMENDMENTS REGARDING ADDITIONAL AUTHORITY.—

(1) GROUP MARKET.—Section 2722 of such Act (42 U.S.C. 300gg–22) is amended by adding at the end the following new subsection:

“(c) REFERENCE TO ADDITIONAL AUTHORITY.—For additional Secretarial authorities with respect to requirements under this part, see sections 2793 and 2794.”.

(2) INDIVIDUAL MARKET.—Section 2761 of such Act (42 U.S.C. 300gg–61) is amended by adding at the end the following new subsection:

“(c) REFERENCE TO ADDITIONAL AUTHORITY.—For additional Secretarial authorities with respect to requirements under this part, see sections 2793 and 2794.”.

## SEC. 7. STANDARDS AND ACCOUNTABILITY AND TRANSPARENCY INITIATIVES FOR GROUP HEALTH PLANS THROUGH DEPARTMENTS OF LABOR AND THE TREASURY.

(a) STANDARDS.—In coordination with the Secretary of Health and Human Services, the Secretaries of Labor and the Treasury shall establish for group health plans standards comparable to the standards developed by the Secretary of Health and Human Services for group health insurance coverage under section 2708 of the Public Health Service Act, as added by section 3(a), in order to promote quality, fair marketing, and honesty in out-of-network coverage under such plans and to permit participants to make an informed decision in cases where they are offered a choice of coverage under such a plan.

(b) ACCOUNTABILITY AND TRANSPARENCY INITIATIVES.—In coordination with the Secretary of Health and Human Services, the Secretaries of Labor and the Treasury shall jointly undertake accountability and transparency initiatives with respect to group health plans similar to those undertaken by the Secretary of Health and Human Services with respect to group and individual health insurance coverage under sections 2793 and 2794 of the Public Health Service Act, as added by sections 4 and 5 of this Act.

(c) GROUP HEALTH PLAN DEFINED.—In this section, with respect to the Secretary of Labor and the Secretary of the Treasury, the term “group health plan” has the meaning such term for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and chapter 100 of the Internal Revenue Code of 1986, respectively.

## Sample "Coverage Facts" Label for Health Insurance

<b>Coverage Facts</b>				
Individually Purchased Health Insurance, 2008				
<b>Policy A (California)</b>				
Monthly Premium (age 55) †			\$211	
Annual deductible			\$1,500	
Annual OOP limit			\$1,500	
Cost sharing not subject to annual OOP			None	
Significant exclusions, benefit limits			Mental health limit of 20 visits, Wigs	
<b>Breast Cancer Scenario ‡</b>				
(May 1 diagnosis, 87 weeks active treatment)				
Estimated allowed charges for all treatment			\$97,298	
Estimated paid by patient			<b>\$3,602</b> <b>(4%)</b>	
Care type	# billed	Total allowed charges (\$)	\$ paid out of pocket	% paid out of pocket
Office Visit	48	3,120	505	16%
Office Procedure	47	524	248	47%
Radiology	12	6,356	195	3%
Laboratory	40	1,632	149	9%
Surgery	1	2,777	487	18%
Hospital	1	3,205	0	0%
Inpat Med Care	1	136	0	0%
Rx Drugs	36	5,315	502	9%
Prostheses	1	200	200	100%
Chemotherapy	36	63,320	0	0%
Mental Health	36	2,574	140	5%
Radiation Therapy	35	8,140	1175	14%
* signifies less than 1/2 of 1%				
Source of patient costs		Number encountered	Amount	
Annual medical deductibles		3	\$3,332	
Co-pays		n/a	\$0	
Co-insurance		n/a	\$0	
Non-covered care		2	\$270	
† Monthly premium reflects rate quoted on ehealthinsurance.com for applicant in Sacramento in excellent health. <i>Individual premiums may vary based on health status, age, and other factors.</i>				
‡ Breast Cancer Scenario includes outpatient lumpectomy, 4 two-week cycles each of two chemotherapy regimens, 7 weeks of daily radiation therapy, one year of Herceptin therapy, short term mental health counseling, various diagnostic lab and imaging services and prescription drugs. Scenario based on treatment guidelines published by NCCN. <i>Individual patient care needs may vary.</i>				
All care assumed to be received from in-network providers following all plan rules for prior authorization. Receipt of care by non-plan providers or without required authorizations can result in substantially higher out-of-pocket costs.				
Active treatment over 87 weeks beginning in May assumes patient faces annual deductibles and other cost sharing in three plan years. Diagnosis at different time during calendar year could produce different cost sharing results.				

Source: Karen Pollitz et al, "Coverage when it Counts: How much protection does health insurance offer and how can consumers know?" May 8, 2009.

[http://www.americanprogressaction.org/issues/2009/05/health\\_coverage.html](http://www.americanprogressaction.org/issues/2009/05/health_coverage.html)

By Ms. MURKOWSKI:

S. 1053. A bill to amend the National Law Enforcement Museum Act to extend the termination date; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, this week is National Police Week, the one week each year when tens of thousands of law enforcement officers from around the U.S. and some from foreign lands descend upon Washington, DC to pay homage to the fallen officers who gave their lives in the service of our communities.

All around Washington we see police cars and motorcycles from jurisdictions far and wide. Honor guards and drill teams. And many uniformed law enforcement officers with their families and kids.

At a hotel in Alexandria, VA, thousands of surviving families and coworkers of fallen law enforcement officers are gathered for the 2009 National Police Survivors Conference, sponsored by Concerns of Police Survivors. Today marks the 25th anniversary of the founding of Concerns of Police Survivors. I thank all of our colleagues for supporting S. Res. 138 commending that organization on the occasion of this significant anniversary. Tomorrow we observe Peace Officers Memorial Day with services at the U.S. Capitol.

Last evening the National Law Enforcement Officers Memorial Fund conducted its annual candlelight vigil at the memorial on Judiciary Square. I had the privilege of reading the name of a fallen officer, John Patrick Watson of the Kenai Police Department, at the 2004 candlelight vigil. I can attest that this annual event does justice to the memory of the 18,662 names inscribed on the memorial walls.

For fifty-one weeks out of every year those memorial walls display names. Just names. There is a story of heroism behind each of these names. Yet for 51 weeks out of each year, those stories are hidden from public view. Visitors to the memorial can discover but a few of these stories by viewing the displays at the Memorial Fund's tiny visitor's center.

During National Police Week the memorial comes alive with news clippings, photographs and patches—even the door of a police car—placed at the memorial by law enforcement agencies and friends and family members of the fallen officers. These ad hoc memorials are removed at the end of Police Week. Those that are left behind become part of the National Law Enforcement Officers Memorial Fund's permanent collection. Someday more substantial parts of that collection will be displayed to the public at the National Law Enforcement Museum.

In 2000, Congress passed the National Law Enforcement Museum Act, Public Law 106-492, which set aside land across from the National Law Enforcement Officers Memorial for a National Law Enforcement Museum. The museum is to be operated by the National Law Enforcement Officers Memorial Fund.

This National Law Enforcement Museum will tell the story of our law enforcement heroes. It will help ensure that visitors to the Law Enforcement Officers Memorial have an opportunity to reflect on the ways that our fallen officers lived their lives, rather than the way those officers died.

Our colleagues may be interested to know that it was Vivian Eney-Cross, the surviving spouse of a fallen U.S. Capitol Police officer, who coined the phrase, "It is not how these officers died that made them heroes, it is how they lived."

The National Law Enforcement Museum Act requires that the museum be financed with private contributions. The National Law Enforcement Officers Memorial Fund has been diligent in seeking private financing and hopes to break ground on the museum in November 2010 with a 2013 opening date.

I am hopeful that construction of the new museum will begin in 2010 but I am also realistic about the difficulties of raising private funds for worthy projects given current world economic conditions.

Fortunately, these economic conditions have neither deterred the Memorial Fund from asking for donations nor have they deterred prospective contributors with the ability to give, from giving. On May 4, the Memorial Fund announced a \$1.5 million grant from the Verizon Foundation to develop educational and interactive technology programs at the planned museum.

However, I must call the attention of our colleagues to a critical deadline in the National Law Enforcement Museum Act. The act provides that the authority to construct a museum terminates on November 9, 2010 if construction has not begun by that date. Today, I offer legislation that will push the termination date out to November 9, 2013. This legislation will provide a cushion for the Memorial Fund to continue their fundraising efforts.

Our law enforcement officers put their lives on the line every day to protect our communities. Giving the National Law Enforcement Officers Memorial Fund a bit more time to arrange financing, if they need it, is a small price to pay. A small price to pay for the sacrifices our law enforcement officers and their families make every day.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1053

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. NATIONAL LAW ENFORCEMENT MUSEUM ACT.

Section 4(f) of the National Law Enforcement Museum Act (Public Law 106-492) is amended by striking "10 years" and inserting "13 years".

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 149—EXPRESSING SOLIDARITY WITH THE WRITERS, JOURNALISTS, AND LIBRARIANS OF CUBA ON WORLD PRESS FREEDOM DAY AND CALLING FOR THE IMMEDIATE RELEASE OF CITIZENS OF CUBA IMPRISONED FOR EXERCISING RIGHTS ASSOCIATED WITH FREEDOM OF THE PRESS

Mr. MARTINEZ (for himself, Mr. MENENDEZ, Mr. GRAHAM, Mr. ENSIGN, Mr. NELSON of Florida, Mr. VOINOVICH, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 149

Whereas Article 19 of the Universal Declaration of Human Rights provides, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.,"

Whereas the United Nations General Assembly declared May 3 of each year to be "World Press Freedom Day" to raise awareness of the importance of freedom of expression and to remind governments of their obligation to respect the rights of free expression and of a free press;

Whereas the United States Department of State, in its 2008 report on human rights in Cuba, notes, "The government [of Cuba] subjected independent journalists to travel bans, detentions, harassment of family and friends, equipment seizures, imprisonment, and threats of imprisonment. State Security agents posed as independent journalists to gather information on activists and spread misinformation and mistrust within independent journalist circles.,"

Whereas Reporters Without Borders, an international nongovernmental organization, continues to rank Cuba as one of the most repressive countries in the world, and the most repressive country in the Western Hemisphere, with respect to freedom of the press;

Whereas the International Press Institute, a global network of journalists, editors, and media executives, concludes that Cuba "remains a leading jailer of journalists";

Whereas International PEN, an international network of writers, has reported that 22 writers, journalists, and librarians were among the individuals arrested and tried during the crackdown by the Government of Cuba on independent civil society activists in the spring of 2003, and subsequently imprisoned;

Whereas International PEN further reports that "the majority of the detained writers, journalists and librarians are suffering from health complaints caused or exacerbated by the harsh conditions and treatment they are exposed to in prison. Despite their deteriorating health status, access to adequate medical treatment is often limited.," and

Whereas the Committee to Protect Journalists, a nonpartisan international organization of journalists, has identified more than 20 writers, journalists, and librarians in Cuba who remain imprisoned by the Government of Cuba: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses solidarity with—

(A) the citizens of Cuba who are suffering harassment, deprivation, or imprisonment for exercising rights associated with freedom

of the press and pursuing livelihoods as independent writers, journalists, or librarians; and

(B) the family members of those writers, journalists, and librarians; and

(2) calls on the Government of Cuba to release immediately all writers, journalists, and librarians who are imprisoned for exercising their fundamental human rights, including the citizens of Cuba that have been specifically identified by international organizations that monitor respect for the freedom of the press as being imprisoned by the Government of Cuba.

**SENATE RESOLUTION 150—COMMEMORATING AND CELEBRATING THE LIVES OF OFFICER KRISTINE MARIE FAIRBANKS, DEPUTY ANNE MARIE JACKSON, AND SERGEANT NELSON KAI NG WHO GAVE THEIR LIVES IN THE SERVICE OF THE PEOPLE OF WASHINGTON STATE IN 2008**

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas law enforcement officers throughout Washington State conduct themselves in a manner that supports, maintains, and defends the Constitution of the United States and the Constitution of the State of Washington;

Whereas law enforcement officers in Washington State and throughout the Nation risk their own lives to protect the lives of others;

Whereas since 1792, approximately 18,600 law enforcement officers were killed in the line of duty in the United States, and 262 of those officers served the people of Washington State;

Whereas in 2008, 133 law enforcement officers were killed in the line of duty in the United States;

Whereas in 2008, Deputy Anne Marie Jackson of the Skagit County Sheriff's Office, Officer Kristine Marie Fairbanks of the U.S. Forest Service, and Sergeant Nelson Kai Ng of the Ellensburg Police Department gave their lives in the service of the people of Washington State;

Whereas the family members and friends of Officer Fairbanks, Deputy Jackson, and Sergeant Ng bear the most immediate and profound burden of the absence of their loved ones; and

Whereas National Police Week is observed from May 10 to May 16, 2009, and is the most appropriate time to honor the Washington State law enforcement officers who sacrificed their lives in service to their State and Nation: Now, therefore, be it

*Resolved, That the Senate—*

(1) extends its condolences to the families and loved ones of Officer Kristine Marie Fairbanks, Deputy Anne Marie Jackson, and Sergeant Nelson Kai Ng; and

(2) stands in solidarity with the people of Washington State as they celebrate the lives and mourn the loss of these remarkable and selfless heroes who represented the best of their community and whose memory will serve as an inspiration for future generations.

**SENATE RESOLUTION 151—DESIGNATES A NATIONAL DAY OF REMEMBRANCE ON OCTOBER 30, 2009, FOR NUCLEAR WEAPONS PROGRAM WORKERS IN THE SERVICE OF THE PEOPLE**

Mr. BUNNING (for himself, Mr. ALEXANDER, Ms. MURKOWSKI, Mr. BINGAMAN, Mr. UDALL of Colorado, Mr. KENNEDY, Mr. VOINOVICH, Mr. REID, Mr. CORKER, Mr. GRASSLEY, Mrs. MURRAY, and Mr. MCCONNELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 151

Whereas hundreds of thousands of men and women have served this Nation in building its nuclear defense since World War II;

Whereas these dedicated American workers paid a high price for their service and have developed disabling or fatal illnesses as a result of exposure to beryllium, ionizing radiation, toxic substances, and other hazards that are unique to the production and testing of nuclear weapons;

Whereas these workers were put at individual risk without their knowledge and consent in order to develop a nuclear weapons program for the benefit of all American citizens; and

Whereas these patriotic men and women deserve to be recognized for their contribution, service, and sacrifice towards the defense of our great Nation: Now, therefore, be it

*Resolved, That the Senate—*

(1) designates October 30, 2009, as a national day of remembrance for American nuclear weapons program workers and uranium miners, millers, and haulers; and

(2) encourages the people of the United States to support and participate in appropriate ceremonies, programs, and other activities to commemorate October 30, 2009, as a national day of remembrance for past and present workers in America's nuclear weapons program.

Mr. ALEXANDER. Mr. President, today I am joining with Senator BUNNING and other senators to introduce a resolution to declare a National Day of Remembrance in honor of the thousands of men and women that supported our nuclear efforts during the Cold War.

The dedicated employees of the Department of Energy and its contractors were instrumental in our winning the Cold War. These employees worked in laboratories and factories related to nuclear weapons, under hazardous conditions that were sometimes not well understood. They put their health and their lives in jeopardy in the service of their country, often without knowing it.

Tennessee has more workers that were made sick through their exposure to nuclear weapon hazards than any other state in the union. That is why one of my priorities in the U.S. Senate has been to help get our Cold War heroes and their families the compensation they deserve—from a major overhaul of the sick worker's program in 2004, to legislation that introduced last year to ensure that compensation for the families of sick nuclear worker won't be taken away in cases where sick workers or their eligible survivors die before their claims are processed.

While the compensation program can provide some financial assistance, it can never fully make up for what was lost.

I would also like to take a moment to mention one particular heroine among these Cold War heroes: Janine Lynn Anderson, a dedicated advocate for all the American nuclear weapons workers. Janine worked tirelessly for over a decade to ensure that nuclear weapons workers were not forgotten after the Cold War was won. Sadly, Janine passed away just a week ago on May 2. She will be missed.

It was her idea that these patriotic men and women be recognized through a National Day of Remembrance, for their contribution, service, and sacrifice towards the defense of this great nation.

That is why it is particularly appropriate that today we introduce this resolution to designate October 30, 2009 as a National Day of Remembrance in honor of these Cold War heroes. I look forward to working with my colleagues from both parties to pass this resolution soon.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1111. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table.

SA 1112. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1113. Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1114. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1115. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1116. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1117. Mr. LEVIN (for himself and Mrs. McCASKILL) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1118. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1119. Mr. LEVIN (for himself, Mrs. McCASKILL, and Ms. COLLINS) submitted an

amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1120. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1121. Mr. DURBIN (for himself and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1122. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1123. Mr. BURR submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1124. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1125. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1126. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 1107 submitted by Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. BURRIS) to the amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, supra.

SA 1127. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 627, supra; which was ordered to lie on the table.

SA 1128. Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

SA 1129. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1106 submitted by Mrs. MURRAY and intended to be proposed to the amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1111.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

#### SEC. 503. RESPA AND TILA DISCLOSURE IMPROVEMENT.

(a) **COMPATIBLE DISCLOSURES.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) and the Board shall jointly issue for public comment proposed regulations providing for compatible disclosures to be made to borrowers at the time of a mortgage application and at the time of closing of a mortgage.

(b) **REQUIREMENTS.**—Such disclosures shall—

(1) provide clear and concise information to borrowers on the terms and costs of residential mortgage transactions and mortgage transactions covered by the Truth in Lending Act (12 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);

(2) satisfy the requirements of section 128 of the Truth in Lending Act (12 U.S.C. 1638) and sections 4 and 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603 and 2604);

(3) include early disclosures under the Truth in Lending Act, the good faith estimate disclosures under the Real Estate Settlement Procedures Act of 1974, and final disclosures under the Truth in Lending Act and the uniform settlement statement disclosures under the Real Estate Settlement Procedures Act of 1974, and provide for standardization to the greatest extent possible among such disclosures, from mortgage origination through the mortgage settlement; and

(4) include, with respect to a residential home mortgage loan, a written statement of—

(A) the principal amount of the loan;

(B) the term of the loan;

(C) whether the loan has a fixed rate of interest or an adjustable rate of interest;

(D) the annual percentage rate of interest under the loan as of the time of the disclosure;

(E) if the rate of interest under the loan can adjust after the disclosure, for each such possible adjustment—

(i) when such adjustment will or may occur; and

(ii) the maximum annual percentage rate of interest to which it can be adjusted;

(F) the total monthly payment under the loan (including loan principal and interest, property taxes, and insurance) at the time of the disclosure;

(G) the maximum total estimated monthly maximum payment pursuant to each possible adjustment described in subparagraph (E);

(H) the total settlement charges in connection with the loan and the amount of any down payment or cash required at settlement; and

(I) whether the loan has a prepayment penalty or balloon payment and the terms, timing, and amount of any such penalty or payment.

(c) **SUSPENSION OF 2008 RESPA RULE.**—

(1) **REQUIREMENT.**—The Secretary shall, during the period beginning on the date of enactment of this Act and ending on the date on which proposed regulations are issued pursuant to subsection (a), suspend implementation of any provision of the final rule referred to in paragraph (2) that would establish and implement a new standardized good faith estimate and a new standardized uniform settlement statement. Any such provision shall be replaced by the regulations issued pursuant to subsections (a) and (b) on the date on which such regulations are issued.

(2) **2008 RULE.**—The final rule referred to in this paragraph is the rule of the Department of Housing and Urban Development pub-

lished on November 17, 2008, on pages 68204–68288 of Volume 73 of the Federal Register (Docket No. FR–5180–F–03; relating to “Real Estate Settlement Procedures Act (RESPA): Rule to Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs”).

(d) **IMPLEMENTATION.**—The regulations required under subsection (a) shall take effect, and shall provide an implementation date for the new disclosures required under such regulations, not later than 12 months after the date of enactment of this Act.

(e) **FAILURE TO ISSUE COMPATIBLE DISCLOSURES.**—

(1) **REPORT TO CONGRESS.**—If the Secretary and the Board cannot agree on compatible disclosures pursuant to subsections (a) and (b), the Secretary and the Board shall submit a report to the Congress, after the 6-month period referred to in subsection (a), explaining the reasons for such disagreement.

(2) **SEPARATE PROPOSED REGULATIONS.**—

(A) **ISSUANCE OF PROPOSED REGULATIONS.**—After the 15-day period beginning on the date of submission of a report under paragraph (1), the Secretary and the Board may separately issue for public comment regulations, as required by this section, providing for disclosures under the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the Truth in Lending Act (12 U.S.C. 1601 et seq.), respectively.

(B) **EFFECTIVE DATE OF FINAL REGULATIONS.**—Any final disclosures as a result of such regulations issued by the Secretary and the Board shall take effect on the same date, and in no case shall such regulations take effect later than 12 months after the date of enactment of this Act.

(C) **FAILURE TO ACT.**—If either the Secretary or the Board fails to act as required by this paragraph during such 12-month period, the other agency may act independently to implement final regulations.

(f) **STANDARDIZED DISCLOSURE FORMS.**—

(1) **IN GENERAL.**—Any regulation proposed or issued pursuant to the requirements of this section shall include model disclosure forms.

(2) **OPTION FOR MANDATORY USE.**—In issuing proposed regulations under subsection (a), the Secretary and the Board shall include regulations for the mandatory use of standardized disclosure forms if the Secretary and the Board jointly determine that such forms would substantially benefit consumers.

**SA 1112.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

On page 47, strike lines 10 and 11 and insert the following:

“(6) the use of risk-based pricing;

“(7) credit card product innovation;

“(8) higher annual percentage rates of interest, on average, for users than the average of such rates of interest in effect before the effective date of this Act and the amendments made by this Act;

“(9) the imposition of annual fees or other fees—

“(A) that did not exist before such effective date;

“(B) at a higher average rate of applicability than existed before such effective date; or

“(C) with higher average costs to the consumer than were in effect before such effective date;

“(10) any increase in the rate of denial of—

“(A) new credit accounts for consumers; or

“(B) new extensions of credit or additional lines of credit for credit accounts established before such effective date; and

“(11) any other adverse or negative condition or effect on consumers.”.

**SA 1113.** Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, line 10, strike “Section 127” and insert the following:

“(a) REPORT ON IMPACT; EFFECTIVE DATE.—

“(1) REPORT BY THE BOARD.—Not later than December 1, 2009, the Board shall provide an economic report to Congress detailing the impact of section 127(n) of the Truth in Lending Act, as added by this section, on consumer access to credit.

“(2) EFFECTIVE DATE.—Notwithstanding section 3 or any other provision of this Act, unless the Board certifies in writing to Congress that the economic report required by this subsection shows no potential for a material reduction in consumer access to credit, or if the Board fails to timely issue the economic report required by this subsection, section 127(n) of the Truth in Lending Act, as added by this section, shall become effective 2 years after the date of enactment of this Act. The effective date provided in section 3 shall apply to such section 127(n) if the Board certifies that the report shows no potential reduction in consumer access to credit.

“(b) AMENDMENT TO TILA.—Section 127”.

**SA 1114.** Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 503. ADDITIONAL MONITORING AND ACCOUNTABILITY FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) IN GENERAL.—Section 113 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223) is amended by adding at the end the following new subsection:

“(e) ADDITIONAL MONITORING AND ACCOUNTABILITY.—

“(1) IN GENERAL.—The Secretary shall—

“(A) provide to the Special Inspector General appointed under section 121, the Comptroller General of the United States, and the Congressional Oversight Panel established under section 125 ongoing, continuous, and close to real-time updates of the status of the use of funds distributed under this title, including with respect to procurement contracts, through a standardized electronic database that combines all of the necessary information from existing public and private sources;

“(B) compare the data in such database with any other data that the Secretary

chooses to review for any activities that are inconsistent with the purposes of this Act;

“(C) collect from all Federal agencies any regulatory filings, data generated by the use of internal models, financial models, and analytics associated with the financial assistance received under this title on no less than a daily basis to help enable the Secretary to determine the effectiveness of the Troubled Asset Relief Program in stimulating prudent lending and strengthening bank capital;

“(D) if the Secretary determines that the goals of this title are not being met, work with the Federal agencies supplying the information to have them provide the recipients with recommendations for better meeting the goals of this title; and

“(E) if the Secretary determines that the goals of this title are not met following such recommendations, adjust the future uses of assistance available under this title.

“(2) DATABASE AS REPOSITORY.—To the extent practicable, all information that is required to be reported under this title by institutions receiving financial assistance or procurement contracts under this title shall be included by the Secretary in the database established pursuant to paragraph (1)(A).

“(3) PROCEDURES AND REGULATIONS.—The Secretary shall, in consultation with the appropriate Federal banking agencies, define and manage the procedures and regulations needed for carrying out this subsection.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 60 days after the date of enactment of this Act.

**SA 1115.** Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 34, line 12, strike all through page 35, line 24, and insert the following:

**SEC. 301. EXTENSIONS OF CREDIT TO CONSUMERS.**

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(8) VERIFICATION OF ABILITY TO PAY.—

“(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end consumer credit plan established by or on behalf of, a consumer, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

“(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer shall require—

“(i) the signature of a cosigner having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account; or

“(ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

“(C) SAFE HARBOR.—The Board shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).”.

**SA 1116.** Mr. MENENDEZ submitted an amendment intended to be proposed

to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 109. FIRM OFFER OF CREDIT.**

Section 603(l) of the Fair Credit Reporting Act (15 U.S.C. 1681a(l)) is amended to read as follows:

“(1) FIRM OFFER OF CREDIT.—

“(1) DEFINITION.—The term ‘firm offer of credit’ means any offer of credit to a consumer that specifies all material terms, and will be honored if the consumer is determined to meet the specific criteria used to select the consumer for the offer, based on information in a consumer report on the consumer.

“(2) REQUIRED DISCLOSURES IN OFFERS OF CREDIT.—In the case of a firm offer of credit, the offer shall set forth the specific annual percentage rate, fees, and amount of credit or credit limit applicable to the offer.

“(3) ACCEPTABLE CONDITIONS.—A firm offer of credit to a consumer may be further conditioned on—

“(A) verification that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the application of the consumer for the credit, or other information bearing on the credit worthiness of the consumer;

“(B) the consumer furnishing any collateral that is a requirement for the extension of the credit that was—

“(i) established before selection of the consumer for the offer of credit; and

“(ii) disclosed to the consumer in the offer of credit; or

“(C) any combination of the criteria in subparagraphs (A) and (B).”.

**SA 1117.** Mr. LEVIN (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike lines 5 through 12, and insert the following:

“(a) IN GENERAL.—

“(1) The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over the limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

“(2) A fee amount shall not be treated as reasonable and proportional under paragraph (1) if such card issuer increases such fee amount by charging interest with respect to such fee amount.”.

**SA 1118.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to

the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike lines 5 through 12, and insert the following:

“(a) IN GENERAL.—

“(1) The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

“(2) An over-the-limit fee amount may be treated as reasonable and proportional under paragraph (1) only if the over-the-limit fee is imposed only once during a billing cycle when, on the last day of such billing cycle, the credit limit on the account is exceeded, and only if the over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.”.

**SA 1119.** Mr. LEVIN (for himself, Mrs. McCASKILL, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, line 18, through page 47, line 11, strike the text and insert the following—

“(a) REQUIRED REVIEW.—

“(1) IN GENERAL.—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review of the consumer credit card market, including—

“(A) the terms of credit card agreements and the practices of credit card issuers;

“(B) the effectiveness of disclosures of terms, fees, and other expenses of credit card plans;

“(C) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans;

“(D) the cost and availability of credit, particularly with respect to non-prime borrowers;

“(E) the safety and soundness of credit card issuers;

“(F) the use of risk-based pricing; and

“(G) credit card product innovation; and

“(2) CREDIT CARD DATA.—In conducting the review under paragraph (1), the Board shall consider information collected under section 136 of the Truth in Lending Act (15 U.S.C. 1646); and to ensure an adequate review of the matters in subparagraphs (1)(A), (C), (D), (F), and (G), and to carry out section 149 of the Truth in Lending Act on the reasonableness and proportionality of credit card fees and charges, as amended by this Act, the Board shall require that the information collected under section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)) shall include the following—

“(A) a list of each type of transaction or event during the relevant semiannual period for which one or more card issuer has imposed a separate interest rate upon a cardholder, including purchases, cash advances, and balance transfers;

“(B) for each type of transaction or event identified under subparagraph (A)—

“(i) each distinct interest rate charged by the card issuer to a cardholder during the semiannual period; and

“(ii) the number of cardholders to whom each such interest rate was applied during the last calendar month of the semiannual period, and the total amount of interest charged to such cardholders at each such rate during such month;

“(C) a list of each type of fee that one or more card issuer has imposed upon a cardholder during the relevant semiannual period, including any fee imposed for obtaining a cash advance, making a late payment, exceeding the credit limit on an account, making a balance transfer, or exchanging United States dollars for foreign currency;

“(D) for each type of fee identified under clause (C), the number of cardholders upon whom the fee was imposed during each calendar month of the relevant semiannual period, and the total amount of fees imposed upon cardholders during such month;

“(E) the total number of cardholders that incurred any interest charge or any fee during the relevant semiannual period; and

“(F) any other information related to interest rates, fees, or other charges that the Board deems of interest to conduct the review under this section or carry out section 149 of the Truth in Lending Act, as amended by this Act.

“(3) INCOME ANALYSIS.—To ensure an adequate review of the matters in subparagraphs (1)(A), (C), (D), (E), (F) and (G), the Board shall, on an annual basis, transmit to Congress and make public a report containing an assessment by the Board of the approximate, relative percentage of income derived by credit card operations of depository institutions from—

“(A) the imposition of interest rates on cardholders, including separate estimates for—

“(i) interest with an annual percentage rate of less than 25 percent, and

“(ii) interest with an annual percentage rate equal to or greater than 25 percent;

“(B) the imposition of fees on cardholders;

“(C) the imposition of fees on merchants; and

“(D) any other material source of income, while specifying the nature of that income.”.

**SA 1120.** Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 503. REPORTS ON ISSUER PRACTICES DURING THE INTERIM PERIOD BETWEEN THE DATE OF ENACTMENT AND THE EFFECTIVE DATE.**

(a) REPORTS TO AGENCIES REQUIRED.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, and every 45 days thereafter, each card issuer shall submit to the appropriate enforcement agency a report containing data on any increase in consumer interest rates by the card issuer made on or after May 1, 2009 that

would be prohibited if such increase took place after the effective date of this Act.

(2) CONTENTS OF REPORTS.—The reports required under paragraph (1)—

(A) shall include—

(i) the number of cardholders affected by each such increase;

(ii) the categories of cardholders affected by each such increase;

(iii) the size of each such increase;

(iv) the reason for each such increase; and

(v) a summary of the volume and nature of any complaints received from cardholders concerning interest rate increases that would be prohibited if such increases took place after the effective date of this Act; and

(B) need not include information on individually negotiated changes to contractual terms, such as individually modified workouts or renegotiations of amounts owed by a consumer under an open end consumer credit plan.

(b) SUMMARY OF DATA ON COMPLAINTS.—

Each appropriate enforcement agency shall—

(1) summarize information on the volume and nature of any complaints received by such agency from a consumer concerning interest rate increases that would be prohibited if such increases took place after the effective date of this Act; and

(2) provide such summary to the Board for purposes of subsection (d).

(c) REPORTS AND DATA AVAILABLE TO PUBLIC.—Each appropriate enforcement agency shall make the reports and data required under subsections (a) and (b) available to the public.

(d) REPORTS TO CONGRESS.—

(1) REPORTS REQUIRED.—The Board shall submit to Congress periodic reports on practices of creditors that contain a compilation of the reports and data required under subsections (a) and (b).

(2) AGENCY COOPERATION.—Each appropriate enforcement agency shall provide compilations of any reports it receives under this section to the Board for purposes of this subsection.

(3) TIMING OF REPORTS.—The Board shall submit the reports required under paragraph (1) not later than 90 days after the date of enactment of this Act, and every 90 days thereafter.

(e) EFFECTIVE DATE.—Notwithstanding section 3 of this Act, this section shall be effective during the period beginning on the date of enactment of this Act and ending on the effective date of this Act under section 3.

(f) DEFINITIONS.—In this section—

(1) the term “appropriate enforcement agency” means, with respect to a card issuer, the agency responsible for administrative enforcement relating to such card issuer under section 108 of the Truth in Lending Act (15 U.S.C. 1607); and

(2) the terms “cardholder”, “card issuer”, “consumer”, and “open end credit plan” have the same meanings as section 103 of the Truth in Lending Act (15 U.S.C. 1602).

**SA 1121.** Mr. DURBIN (for himself and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 109. CONSUMER DISCOUNTS; TRANSPARENCY IN MERCHANT FEE INFORMATION.**

(a) IN GENERAL.—Section 167 of the Truth in Lending Act (15 U.S.C. 1666f) is amended to read as follows:

**“SEC. 167. INDUCEMENTS TO CARD HOLDERS BY SELLERS OF DISCOUNTS FOR PAYMENTS BY CASH, CHECK, OR DEBIT CARDS; FINANCE CHARGE FOR SALES TRANSACTIONS INVOLVING DISCOUNTS.**

“(a) CASH, CHECK, AND DEBIT DISCOUNTS.—With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer and any other covered person may not, by contract, rule, or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, debit card, or similar payment device, rather than by use of a credit card.

“(b) FINANCE CHARGE.—With respect to any sales transaction, any discount from the regular price offered by the seller for the purpose of inducing payment by a means not involving the use of an open end credit plan or credit card shall not constitute a finance charge, as determined under section 106, if the seller—

“(1) offers the discount to all prospective buyers; and

“(2) discloses the availability of the discount to consumers clearly and conspicuously.

“(c) DISCOUNT DISPLAY RESTRICTIONS.—With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer or any other covered person may not, by contract, rule, or otherwise, restrict the discretion of the seller as to how to display or advertise the discounts offered by the seller.

“(d) DEFINITIONS.—For purposes of this section—

“(1) the term ‘covered person’ means—

“(A) an electronic payment system network;

“(B) a licensed member of an electronic payment system network; and

“(C) any other person that sets or implements the rules for the use of an electronic payment system network.”.

(b) DEFINITIONS.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended—

(1) in subsection (x), by striking “or similar means” and inserting “debit card or similar payment device”; and

(2) by adding at the end the following:

“(cc) DEBIT CARD.—The term ‘debit card’ means any general-purpose card or other device issued or approved for use by a financial institution (as that term is defined in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a)) for use in debiting an account for the purpose of the cardholder obtaining goods or services, whether authorization is signature-based, PIN-based, or otherwise.

“(dd) ELECTRONIC PAYMENT SYSTEM NETWORK.—The term ‘electronic payment system network’ means a network that provides, through licensed members, processors, or agents—

“(1) for the issuance of credit cards, debit cards, or other payment cards or similar devices bearing any logo of the network;

“(2) the proprietary services and infrastructure that route information and data to facilitate transaction authorization, clearance, and settlement that merchants must access in order to accept credit cards, debit cards, or other payment cards or similar devices bearing any logo of the network as payment for goods and services; and

“(3) for the screening and acceptance of merchants into the network in order to

allow such merchants to accept credit cards, debit cards, or other payment cards or similar devices bearing any logo of the network as payment for goods and services.

“(ee) LICENSED MEMBER.—The term ‘licensed member’, in connection with any electronic payment system network, includes—

“(1) any creditor or credit card issuer that is authorized to issue credit cards or charge cards bearing any logo of the network;

“(2) any financial institution (as that term is defined in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a)) that is authorized to issue debit cards to consumers who maintain accounts at such financial institution; and

“(3) any person, including any financial institution, that is authorized—

“(A) to screen and accept merchants into any program under which any credit card, debit card, or other payment card or similar device bearing any logo of such network may be accepted by the merchant for payment for goods or services;

“(B) to process transactions on behalf of any such merchant for payment; and

“(C) to complete financial settlement of any such transaction on behalf of such merchant.”.

**SA 1122.** Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 503. FEDERAL TRADE COMMISSION RULE-MAKING ON MORTGAGE LENDING.**

(a) IN GENERAL.—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended—

(1) in subsection (a)—

(A) by striking “Within” and inserting “(1) Within”; and

(B) by adding at the end the following:

“(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

“(3) The Federal Trade Commission shall enforce the rules promulgated pursuant to paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

“(4) An entity owned and controlled by a depository institution and regulated by the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, or the National Credit Union Administration shall not be subject to any rule prescribed under paragraph (1) if the entity is subject to a rule on the same subject matter prescribed by the Board of Governors of the Federal Reserve System pursuant to section 105 or 129(l) of the Truth in Lending Act (15 U.S.C. 1604 and 1639(l)).”.

(2) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

“(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of

a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(A) to enjoin that practice;

“(B) to enforce compliance with the rule;

“(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

“(D) to obtain penalties and relief provided by the Federal Trade Commission Act or the rule and such other relief as the court considers appropriate.”; and

(3) by adding at the end of subsection (b) the following:

“(8) Paragraph (1) shall not be construed to authorize the attorney general of a State to bring an action under this subsection against an entity subject to enforcement by the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, or the National Credit Union Administration under section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)), including an entity described in subsection (a)(4) of this section.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on March 12, 2009.

**SA 1123.** Mr. BURR submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 503. DEFERRAL OF PAYMENTS AND INTEREST ON OBLIGATIONS INCURRED BY SERVICEMEMBERS BEFORE SERVICE IN A COMBAT ZONE.**

(a) IN GENERAL.—Title II of the Servicemembers Civil Relief Act (50 U.S.C. App. 521 et seq.) is amended by adding at the end the following new section:

**“SEC. 208. DEFERRAL OF PAYMENTS AND INTEREST ON OBLIGATIONS INCURRED BY SERVICEMEMBERS BEFORE SERVICE IN A COMBAT ZONE.**

“(a) IN GENERAL.—Payment on any obligation or liability that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember is ordered or assigned to military service in a combat zone shall, upon request of the servicemember in accordance with subsection (b), be deferred and shall not accrue interest during the period the servicemember performs such military service in such combat zone, plus—

“(1) in the case of a servicemember who is retired for disability incurred during such military service, until one year from the date of such retirement; or

“(2) in the case of any other servicemember, 90 days.

“(b) WRITTEN NOTICE TO CREDITOR.—In order for an obligation or liability of a servicemember to be deferred in accordance with subsection (a), the servicemember shall provide the creditor written notice and a copy of the military orders ordering or assigning the servicemember to military service in a combat zone not later than 30 days after the

date of the servicemember's order or assignment to such military service. In the event the servicemember's military service in a combat zone is extended, the servicemember shall provide the creditor written notice and a copy of the military orders extending such service not later than 30 days after the date of the order extending such military service.

“(c) LIMITATION EFFECTIVE AS OF DATE OF ORDERS.—Upon receipt of written notice and a copy of orders ordering or assigning a servicemember to military service in a combat zone under subsection (b), the creditor shall treat the obligation or liability in accordance with subsection (a), effective as of the date on which the servicemember is called or assigned to such military service.

“(d) CREDITOR PROTECTION.—A court may grant a creditor relief from the limitations of subsection (a) if, in the opinion of the court, the ability of the servicemember to pay the obligation or liability is not materially affected by reason of the servicemember's military service in a combat zone.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘interest’ includes service charges, renewal charges, fees, or any other charges (other than bona fide insurance) with respect to an obligation or liability.

“(2) The term ‘combat zone’ means a combat zone for purposes of section 112 of the Internal Revenue Code of 1986.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 207 the following new item:

“Sec. 208. Deferral of payments and interest on obligations incurred by servicemembers before service in a combat zone.”.

**SA 1124.** Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

#### SEC. 503. EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking “equal to not more than the greater of—” and inserting the following: “equal to—

“(A) not more than the greater of—”; and

(4) by adding at the end the following:

“(B) the State's maximum lawful annual percentage rate or 17 percent, to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

“(i) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

“(ii) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

“(iii) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

“(I) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

“(II) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

“(III) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

“(iv) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).”.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

**SA 1125.** Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, and the following:

#### SEC. —. FEDERAL TRADE COMMISSION RULE-MAKING ON MORTGAGE LENDING.

(a) IN GENERAL.—Section 626 of Division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8) is amended—

(1) by inserting “(1) in subsection (a) before ‘Within’;”

(2) by inserting after paragraph (1) of subsection (a) (as designated by paragraph (1)), the following:

“(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

“(3) The Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.”;

(3) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

“(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(A) to enjoin that practice;

“(B) to enforce compliance with the rule;

“(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

“(D) to obtain penalties and relief provided by the Federal Trade Commission Act or the rule and such other relief as the court considers appropriate.”; and

(4) by adding at the end of subsection (b) the following:

“(8) Paragraph (1) shall not be construed to authorize the attorney general of a State to bring an action under this subsection against an entity subject to supervision or regulation by the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Reserve Board, the Office of Thrift Supervision, the National Credit Union Administration Board, or any other Federal banking agency.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on March 12, 2009.

**SA 1126.** Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 1107 submitted by Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. BURRIS) to the amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; as follows:

At the end of the amendment, add the following:

#### SEC. 504. EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking “equal to not more than the greater of—” and inserting the following: “equal to—

“(A) not more than the greater of—”; and

(4) by adding at the end the following:

“(B) the State's maximum lawful annual percentage rate or 17 percent, to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

“(i) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

“(ii) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

“(iii) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

“(I) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

“(II) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

“(III) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

“(iv) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).”.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

**SA 1127.** Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SMALL BUSINESS INFORMATION SECURITY TASK FORCE.**

(a) **DEFINITIONS.**—In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “small business concern” has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term “task force” means the task force established under subsection (b).

(b) **ESTABLISHMENT.**—The Administrator shall, in conjunction with the Department of Homeland Security, establish a task force, to be known as the Small Business Information Security Task Force, to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) **DUTIES.**—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) **INTERNET WEBSITE RECOMMENDATIONS.**—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to

the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations, both public and private, to which the Internet website should link.

(e) **EDUCATION PROGRAMS.**—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) **EXISTING MATERIALS.**—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) **COORDINATION WITH PUBLIC AND PRIVATE SECTOR.**—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) **APPOINTMENT OF MEMBERS.**—

(1) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) **MEMBERS.**—

(A) **CHAIRPERSON AND VICE-CHAIRPERSON.**—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) **ADDITIONAL MEMBERS.**—

(i) **IN GENERAL.**—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) **NUMBER OF MEMBERS.**—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(I) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) **GROUPS REPRESENTED.**—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies within small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) **POLITICAL AFFILIATION.**—The appointments under this subsection shall be made without regard to political affiliation.

(i) **MEETINGS.**—

(1) **FREQUENCY.**—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) **QUORUM.**—A majority of the members of the task force shall constitute a quorum.

(3) **LOCATION.**—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) **MINUTES.**—

(A) **IN GENERAL.**—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to Administrator any findings or recommendations approved at the meeting.

(B) **SUBMISSION TO CONGRESS.**—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) **FINDINGS.**—

(A) **IN GENERAL.**—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) **PERSONNEL MATTERS.**—

(1) **COMPENSATION OF MEMBERS.**—Each member of the task force shall serve without pay for their service on the task force.

(2) **TRAVEL EXPENSES.**—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) **DETAIL OF SBA EMPLOYEES.**—The Administrator may detail, without reimbursement, any of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) **SBA SUPPORT OF THE TASK FORCE.**—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) **NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) **STARTUP DEADLINES.**—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) **EXCEPTION.**—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$300,000 for each of fiscal years 2010 through 2013.

**SA 1128.** Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On 31, line 13, after “the Commission” insert “, including an affirmative vote of at least one member appointed under subparagraph (C) or (D) of subsection (b)(1)”.

**SA 1129.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1106 submitted by Mrs. MURRAY and intended to be proposed to the amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 503. FINANCIAL AND ECONOMIC LITERACY.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Financial Literacy and Education Commission shall—

(1) evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(2) prepare and submit a report to Congress that includes—

(A) the findings of the evaluations and the effectiveness of Federal financial and economic literacy education programs, including programs included in the Commission's 2006 National Strategy for Financial Literacy report;

(B) recommendations for improvements to Federal financial and economic literacy education programs;

(C) specific Federal policies that should be implemented, updated, or changed to improve financial and economic literacy education;

(D) a description of any gaps that exist in research on financial and economic literacy education, and recommendations on research that would fill those gaps;

(E) specific recommendations on sources of revenue to support financial and economic literacy education activities, with a specific analysis of the potential use of credit card transaction fees; and

(F) recommendations for ways to increase the awareness of elementary and secondary schools, postsecondary educational institutions, and the general public of the Commission's website, [www.MyMoney.gov](http://www.MyMoney.gov), or any successor to such website.

(b) EFFECTIVE DATE.—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the infor-

mation of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Tuesday, May 19, 2009 at 2:15 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 14, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, May 14, 2009 at 10 a.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Thursday, May 14, 2009, at 2:30 p.m., in room SD-366 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, May 14, 2009, at 10 a.m., in room 215 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 14, 2009, at 9:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 14, 2009, at 2 p.m., to hold a hearing entitled “The Middle East: The Road to Peace.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Delivery Reform: The Roles of Primary and Specialty Care in Innovative New Delivery Methods” on Thursday, May 14, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 14, 2009, at 10:30 a.m. in room 628 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 14, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**PRIVILEGES OF THE FLOOR**

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the privileges of the floor be granted to Gil Duran of my staff for the length of my presentation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that privileges of the floor be granted for the remainder of this Congress to the following members of my staff: Monica Feit and Rachel Shoemate.

The PRESIDING OFFICER. Without objection, it is so ordered.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. DODD. Mr. President, I have a series of unanimous consent requests that I wish to propound.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 40 and 85; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order and any statements relating thereto be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

## DEPARTMENT OF STATE

Philip H. Gordon, of the District of Columbia, to be an Assistant Secretary of State (European and Eurasian Affairs).

## EXPORT-IMPORT BANK OF THE UNITED STATES

Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States for a term expiring January 20, 2013.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## COMMENDING SOUTH CHARLESTON, WEST VIRGINIA

Mr. DODD. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. Res. 146 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 146) commending South Charleston, West Virginia, for celebrating its 50th annual Armed Forces Day on May 16, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed; that the motions to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 146) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 146

Whereas Americans appreciate the courage, loyalty, and sacrifice of every individual who serves in the Armed Forces of the United States;

Whereas Armed Forces Day is celebrated on the third Saturday in May to honor those Americans serving in the Army, Navy, Marine Corps, Air Force, and Coast Guard;

Whereas Armed Forces Day was established on August 31, 1949, following the consolidation of the military services of the United States into the Department of Defense;

Whereas Armed Forces Day is celebrated with parades, open houses, receptions, and air shows around the Nation; and

Whereas on May 16, 2009, South Charleston, West Virginia, will observe its 50th annual Armed Forces Day with a parade, music, and other entertainment: Now, therefore, be it

*Resolved*, That the Senate commends South Charleston, West Virginia, for conducting Armed Forces Day celebrations for 50 consecutive years and for honoring the selfless dedication and bravery of the men and women of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

## EXPRESSING SOLIDARITY ON WORLD PRESS FREEDOM DAY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 149, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 149) expressing solidarity with the writers, journalists and librarians of Cuba on World Press Freedom Day and calling for the immediate release of citizens of Cuba imprisoned for exercising rights associated with freedom of the press.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 149) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 149

Whereas Article 19 of the Universal Declaration of Human Rights provides, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers";

Whereas the United Nations General Assembly declared May 3 of each year to be "World Press Freedom Day" to raise awareness of the importance of freedom of expression and to remind governments of their obligation to respect the rights of free expression and of a free press;

Whereas the United States Department of State, in its 2008 report on human rights in Cuba, notes, "The government [of Cuba] subjected independent journalists to travel bans, detentions, harassment of family and friends, equipment seizures, imprisonment, and threats of imprisonment. State Security agents posed as independent journalists to gather information on activists and spread misinformation and mistrust within independent journalist circles.";

Whereas Reporters Without Borders, an international nongovernmental organization, continues to rank Cuba as one of the most repressive countries in the world, and the most repressive country in the Western Hemisphere, with respect to freedom of the press;

Whereas the International Press Institute, a global network of journalists, editors, and media executives, concludes that Cuba "remains a leading jailer of journalists";

Whereas International PEN, an international network of writers, has reported that 22 writers, journalists, and librarians were among the individuals arrested and tried during the crackdown by the Government of Cuba on independent civil society activists in the spring of 2003, and subsequently imprisoned;

Whereas International PEN further reports that "the majority of the detained writers, journalists and librarians are suffering from health complaints caused or exacerbated by the harsh conditions and treatment they are exposed to in prison. Despite their deteriorating health status, access to adequate medical treatment is often limited."; and

Whereas the Committee to Protect Journalists, a nonpartisan international organization of journalists, has identified more than 20 writers, journalists, and librarians in Cuba who remain imprisoned by the Government of Cuba: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses solidarity with—

(A) the citizens of Cuba who are suffering harassment, deprivation, or imprisonment for exercising rights associated with freedom of the press and pursuing livelihoods as independent writers, journalists, or librarians; and

(B) the family members of those writers, journalists, and librarians; and

(2) calls on the Government of Cuba to release immediately all writers, journalists, and librarians who are imprisoned for exercising their fundamental human rights, including the citizens of Cuba that have been specifically identified by international organizations that monitor respect for the freedom of the press as being imprisoned by the Government of Cuba.

## COMMEMORATING AND CELEBRATING THE LIVES OF OFFICER KRISTINE MARIE FAIRBANKS, DEPUTY ANNE MARIE JACKSON, AND SERGEANT NELSON KAI NG

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration S. Res. 150, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 150) commemorating and celebrating the lives of Officer Kristine Marie Fairbanks, Deputy Anne Marie Jackson, and Sergeant Nelson Kai Ng, who gave their lives in the service of the people of Washington State in 2008.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 150) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 150

Whereas law enforcement officers throughout Washington State conduct themselves in a manner that supports, maintains, and defends the Constitution of the United States and the Constitution of the State of Washington;

Whereas law enforcement officers in Washington State and throughout the Nation risk their own lives to protect the lives of others;

Whereas since 1792, approximately 18,600 law enforcement officers were killed in the line of duty in the United States, and 262 of

those officers served the people of Washington State;

Whereas in 2008, 133 law enforcement officers were killed in the line of duty in the United States;

Whereas in 2008, Deputy Anne Marie Jackson of the Skagit County Sheriff's Office, Officer Kristine Marie Fairbanks of the U.S. Forest Service, and Sergeant Nelson Kai Ng of the Ellensburg Police Department gave their lives in the service of the people of Washington State;

Whereas the family members and friends of Officer Fairbanks, Deputy Jackson, and Sergeant Ng bear the most immediate and profound burden of the absence of their loved ones; and

Whereas National Police Week is observed from May 10 to May 16, 2009, and is the most appropriate time to honor the Washington State law enforcement officers who sacrificed their lives in service to their State and Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its condolences to the families and loved ones of Officer Kristine Marie Fairbanks, Deputy Anne Marie Jackson, and Sergeant Nelson Kai Ng; and

(2) stands in solidarity with the people of Washington State as they celebrate the lives and mourn the loss of these remarkable and selfless heroes who represented the best of their community and whose memory will serve as an inspiration for future generations.

#### ORDERS FOR MONDAY, MAY 18, 2009

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m., Monday, May 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DODD. Mr. President, under an agreement reached tonight, the next vote will occur at approximately 10 a.m. Tuesday, May 19. That vote will be a cloture vote on the Dodd-Shelby substitute amendment to H.R. 627, the credit card legislation.

#### ADJOURNMENT UNTIL MONDAY, MAY 18, 2009, AT 2 P.M.

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

Thereupon, the Senate, at 7:19 p.m., adjourned until Monday, May 18, 2009, at 2 p.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### EXECUTIVE OFFICE OF THE PRESIDENT

ANEESH CHOPRA, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE RICHARD M. RUSSELL, RESIGNED.

##### DEPARTMENT OF STATE

CAPRICIA PENAVIC MARSHALL, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF OF PROTOCOL, AND TO HAVE THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE, VICE NANCY GOODMAN BRINKER, RESIGNED.

##### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT PROMOTION TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

##### *To be captain*

MARK H. PICKETT  
MICHAEL D. FRANCISCO  
MARK P. MORAN

##### *To be commander*

MARK J. BOLAND  
BRIAN W. PARKER  
TODD A. HAUPT  
ROBERT A. KAMPHAUS

##### *To be lieutenant commander*

JASON A. APPLER  
NICOLE M. CABANA  
RUSSELL G. HANER  
JOHN A. CROFTS  
PAUL A. KUNICKI  
JEFFREY C. TAYLOR  
NICHOLAS J. CHROBAK  
DANIEL J. PRICE  
NICOLE S. LAMBERT  
CHAD M. CARY

##### *To be lieutenant*

SARAH K. DUNCAN  
STEPHEN P. BARRY  
SAMUEL F. GREENAWAY  
TRACY L. HAMBURGER  
MICHAEL O. GONSALVES  
OLIVIA A. HAUSER  
TONY PERRY III  
JONATHAN R. FRENCH  
AMY B. COX  
MATTHEW J. JASKOSKI  
STEPHEN C. KUZIRIAN  
LINDSEY M. WALLER  
JASON R. SAXE  
DAVID A. STRAUSS  
REBECCA J. WADDINGTON  
GUIENEVERE R. LEWIS

##### *To be lieutenant (junior grade)*

JOHN H. PETERSEN  
BENJAMIN S. BLOSS  
JOHN F. ROSSI  
CHARLENE R. FELKLEY  
EMILY M. ROSE  
KEVIN W. ADAMS  
MATTHEW M. FORNEY  
PATRICIA E. RAYMOND  
MATTHEW J. NARDI  
ADAM R. REED  
ADRIENNE L. HOPPER  
RACHEL M. SARGENT  
RYAN A. WARTICK

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

##### *To be ensign*

HEATHER L. MOE  
RUSSELL D. PATE  
KYLE A. SANDERS  
LINDSAY H. CLOVIS  
JON D. ANDVICK  
AARON D. MAGGIED  
CHRISTOPHER J. BRIAND  
MICHAEL D. ROBBIE  
ERIK S. NORRIS  
KURT S. KARPOV  
MARINA O. KOSENKO

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 8034:

##### *To be general*

GEN. CARROL H. CHANDLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be brigadier general*

COLONEL STEVEN J. ARQUETTE  
COLONEL HOWARD B. BAKER  
COLONEL ROBERT J. BELETIC  
COLONEL SCOTT A. BETHEL  
COLONEL CHARLES Q. BROWN, JR.  
COLONEL SCOTT D. CHAMBERS  
COLONEL CARY C. CHUN  
COLONEL RICHARD M. CLARK  
COLONEL DWYER L. DENNIS  
COLONEL STEVEN J. DEFALMER  
COLONEL IAN R. DICKINSON

COLONEL MARK C. DILLON  
COLONEL SCOTT P. GOODWIN  
COLONEL MORRIS E. HAASE  
COLONEL JAMES E. HAYWOOD  
COLONEL PAUL T. JOHNSON  
COLONEL RANDY A. KEE  
COLONEL JIM H. KEFFER  
COLONEL JEFFREY B. KENDALL  
COLONEL MICHAEL J. KINGSLEY  
COLONEL STEVEN L. KWAST  
COLONEL LEE K. LEVY II  
COLONEL JERRY P. MARTINEZ  
COLONEL JIMMY E. MCMILLIAN  
COLONEL KENNETH J. MORAN  
COLONEL ANDREW M. MUELLER  
COLONEL EDEN J. MURRIE  
COLONEL TERRENCE J. O'SHAUGHNESSY  
COLONEL DAVID E. PETERSEN  
COLONEL TIMOTHY M. RAY  
COLONEL JOHN W. RAYMOND  
COLONEL JOHN N. T. SHANAHAN  
COLONEL JOHN D. STAUFFER  
COLONEL MICHAEL S. STOUGH  
COLONEL MARSHALL B. WEBB  
COLONEL ROBERT E. WHEELER  
COLONEL MARTIN WHELAN  
COLONEL KENNETH S. WILSBACH

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531.

##### *To be lieutenant colonel*

STEPHEN R. DASUTA  
BETH M. DITTMER

##### IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

##### *To be lieutenant commander*

PAUL V. ACQUAVELLA  
JOAN M. MALIK  
BRIAN L. PETRY  
MARY A. PILIWALE  
PAUL L. SMITH  
DAVID M. TULLY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be captain*

CLEMIA ANDERSON, JR.  
ANTONIO J. CARDOSO  
BRETT K. EASLER  
DOUGLAS J. HOLDERMAN  
SYLVESTER MOORE  
HENRY P. ROUX, JR.  
LAWRENCE A. SCRUGGS  
STEVEN D. SHARER  
RICHARD C. VALENTINE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be captain*

JOSEPH R. BRENNER, JR.  
TIMOTHY C. GALLAUDET  
PAUL S. OOSTERLING  
GREG A. ULSES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be captain*

JOHN G. BISCHERI  
KARL A. COOKE  
TIMOTHY J. MARICLE  
DOMENICK MICILLO, JR.  
JOHN E. RIBS  
KENNETH R. SPURLOCK  
TODD J. SQUIRE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be captain*

JEFFREY A. BENDER  
DAWN E. CUTLER  
DARRYN C. JAMES  
PAMELA S. KUNZE  
DAVID H. WATERMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be captain*

ROBERT J. ALLEN  
WILLIAM R. BRAY  
JAMES T. CASON  
JOHN M. DULLUM  
MARK R. ELLIOTT  
JAMES M. ELLIS  
JOHN D. HARBER  
JASON C. HINES  
MARK M. JAREK  
FRANCIS M. MOLINARI  
RONALD D. PARKER  
ALFRED R. V. TURNER  
MICHAEL F. WEBB

EDWARD B. ZELLEM

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICKEY S. BATSON  
JOSEPH D. BOOGREN  
DAVID B. CARSON  
SUSAN K. CEROVSKY  
DARYL S. DAVIS  
ERIC S. DIETZ  
JUSTIN F. KERSHAW  
TIMOTHY G. ROHRER  
FRANK A. SHAUL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

ANGELA D. ALBERGOTTIE  
GISELE M. BONITZ  
ALBERT A. BRADY  
WILLIAM E. CHASE III  
JOSE L. CISNEROS  
PETER R. FALK  
RONALD J. HANSON  
RENA M. LOESCH  
REECE D. MORGAN  
PATRICK M. OWENS  
BRIAN D. PEARSON  
SANDRA J. SCHIAVO  
MICHAEL L. THRALL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICHAEL E. BEAULIEU  
BRUCE W. BROSCHE  
KATHERINE D. C. ERB  
LANCE E. MASSEY  
GREGORY A. MUNNING

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

SCOTT F. ADLEY  
TRACY A. BARKHIMER  
DANA S. DEWEY  
PAUL A. GHYZEL  
SHAWN P. HENDRICKS  
ERIC D. HOLMBERG  
JOHN M. HOOD  
CHRISTOPHER D. JUNGE  
TODD G. KRUDER  
STEVEN J. LABOWS  
RALPH D. LEE  
JOHN S. LEMMON  
THOMAS C. POPP  
JAMES K. REINING  
PATRICK W. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICHAEL A. BALLOU  
JOHN H. BITTING III  
STEVEN M. DEBUS  
DAVID L. FORSTER  
DAVID A. GOGGINS  
JOSEPH D. GOMBAS  
DONALD R. HARDER  
THOMAS W. HEATTER  
SCOTT D. HELLER  
TODD A. HOOKS  
MICHAEL C. LADNER  
DOUGLAS M. LEMON  
JAMES E. MELVIN  
CHRISTOPHER P. MERCER  
FRANCIS E. SPENCER III  
HENRY W. STEVENS III  
RONALD R. VANCOURT  
MARK R. VANDROFF  
STEPHEN F. WILLIAMSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

ANN M. BURKHARDT  
CRAIG C. FELKER  
LEONARD J. HAMILTON  
DONNA M. KASPAR  
WILLIAM R. KRONZER  
CAROLINE M. NIELSON  
KRISTIN B. STRONG  
SHANNON E. M. THAELER  
STEPHEN C. TRAINOR  
MARGARET M. WARD  
JACKLYN D. WEBB

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

HEIDI C. AGLE  
DAVID W. ALLDRIDGE

GLENN R. ALLEN  
DANIEL D. ARENSMEYER  
SCOTT W. ASKINS  
STUART P. BAKER  
MICHAEL P. BARATTA  
JAMES C. BEENE  
TODD A. BELTZ  
MARK B. BENJAMIN  
AUGUSTUS P. BENNETT  
RANDY B. BLACKMON  
DAVID L. BOSSERT  
DAVID W. BOUVE  
WILLIAM J. BREITFELDER  
KEVIN S. BRENNAN  
RICHARD R. BRYANT  
DELL D. BULL  
ERIK A. BURIAN  
MICHAEL P. BURNS  
CHRISTOPHER J. BUSHNELL  
ROBERT A. H. CADY  
ANTHONY T. CALANDRA  
KENNETH W. CARAVEO  
STEVEN M. CARLISLE  
MICHAEL CARSLY  
JOHN A. CARTER  
DANIEL L. CHEEVER  
CHRISTOPHER W. CHOPE  
CRAIG A. CLAPPERTON  
ROBERT E. CLARK  
DANIEL M. COLMAN  
CLAYTON L. CONLEY  
BLAKE L. CONVERSE  
CHARLES B. COOPER II  
MATTHEW F. COUGHLIN  
STEPHEN J. COUGHLIN  
MICHAEL S. CRUDEN  
REX L. CURTIN  
PETER M. DAWSON  
THOMAS L. DEARBORN  
ERICH W. DIEHL  
WILLIAM A. DOCHERTY  
JAMES P. DOODY  
FRANK J. DOWD  
PAUL T. DRUGGAN  
SCOTT E. DUGAN  
DANIEL W. DWYER  
JOHN T. DYE, JR.  
RANDELL W. DYKES  
JOHN P. ECKARDT  
BRIAN P. ECKERLE  
DAVID M. EDGECOMB  
JASON C. EHRET  
JAMES A. EMMERT  
MICHAEL S. FEYDELEEM  
STEPHEN M. FIMPLE  
TODD J. FLANNERY  
CHRISTOPHER J. FLETCHER  
BRIAN W. FRAZIER  
MICHAEL S. FULGHAM  
DONALD D. GABRIELSON  
FREDERICK E. GAGHAN, JR.  
THOMAS D. GAJEWSKI  
ROBERT D. GAMBERG  
HARRY L. GANTHAUME  
PETER A. GARVIN  
JASON A. GILBERT  
CURTIS J. GOODNIGHT  
CHRISTOPHER S. GRAY  
PAUL F. GRONEMEYER  
WESLEY R. GUNN  
JOHN E. GUMBLETON  
PAUL C. HAEBLER  
ROBERT A. HALL, JR.  
THOMAS G. HALVORSON  
MICHAEL V. HARBER  
JURGEN HEITMANN  
EDMUND B. HERNANDEZ  
PATRICK D. HERRING  
EDWARD L. HERRINGTON  
CHRISTOPHER E. HICKS  
ALVIN HOLSEY  
WILLIAM D. HOPPER  
HUGH W. HOWARD III  
PATRICK N. HUETE  
GREGORY C. HUFFMAN  
JEFFREY W. HUGHES  
PAUL D. HUGILL  
WILLIAM T. IPOCK II  
ROGER G. ISOM  
MARY M. JACKSON  
RHETT R. JAEHN  
JEFFREY W. JAMES  
JOKER L. JENKINS  
BRADLEY T. JENSEN  
KEVIN D. JONES  
SARA A. JOYNER  
JOEL D. JUNGEMANN  
JAY A. KADOWAKI  
KURT A. KASTNER  
GREGORY J. KEITHLEY  
VERNON P. KEMPER  
BRADLEY J. KIDWELL  
KEVIN G. KING  
KEVIN E. KINSLOW  
BRIAN D. KOEHR  
WILLIAM S. KOYAMA  
SCOTT C. KRAVERATH  
KEVIN F. KROPP  
TIMOTHY C. KUEHNAS  
GLENN P. KUFFEL, JR.  
CARL A. LAHTI  
JAMES P. LAINGEN  
DENNIS A. LAZAR, JR.  
MARK F. LIGHT  
JAMES M. LINS  
DAVID J. LOBDELL  
JAMES P. LOPER

WALLACE G. LOVELY  
RANDALL J. LYNCH  
PAUL J. LYONS  
GREGORY M. MAGUIRE  
CHARLES B. MARKS III  
MICHAEL W. MARTIN  
RANDALL H. MARTIN  
PETER W. MATISOO  
SCOTT A. MCCLURE  
JOHN M. MCCLAIN  
GREGORY A. MCWHERTER  
MARK V. METZGER  
MARIO MIFSUD  
RICHARD M. MILLER, JR.  
CHARLES C. MOORE II  
BRIAN L. MORGAN  
STEVEN B. MORIEN  
FRANCIS D. MORLEY  
KURUSH F. MORRIS  
TERRY S. MORRIS  
JOHN R. MOSIER, JR.  
CHRISTOPHER P. MURDOCH  
JEFFREY S. MYERS  
JOHN R. NETTLETON  
ROBERT A. NEWSON  
THAD E. NISBETT  
RICHARD M. ODOM II  
MICHAEL F. OTT, JR.  
SCOTT W. PAPPANO  
WILLIAM D. PARK  
WILLIAM J. PARKER III  
VERNON J. PARKS, JR.  
BENJAMIN J. PEARSON III  
WILLIAM P. PENNINGTON  
PAUL A. PENSABENE  
DOUGLAS G. PERRY  
CATHERINE K. PHILLIPS  
MARTIN L. POMPEO  
KENNETH J. REYNARD  
DANIEL J. RIVERA  
DAVID A. ROBERTS  
CHRISTOPHER A. RODEMAN  
AARON L. RONDEAU  
ERIK M. ROSS  
MARK E. SANDERS  
PAUL J. SCHLISE  
TIMOTHY L. SCHORR  
WILLIAM B. SEAMAN, JR.  
TODD J. SENIFF  
CURTIS A. SETH  
DANIEL P. SHAW  
DANIEL A. SHULTZ  
JAMES W. SIGLER  
RICHARD A. SKIFF, JR.  
FRED W. SMITH, JR.  
ROBERT E. SMITH  
THOMAS B. SMITH II  
VICTOR S. SMITH  
MICHAEL C. SPARKS  
WESLEY W. SPENCE  
PAUL A. STADER  
RAY A. STAFF  
MARK L. STEVENS  
WILLIAM R. STEVENSON  
RICK J. STONER  
RANDALL D. TASHJIAN  
MICHAEL J. TESAR  
JOHN J. THOMPSON  
THOMAS L. THOMPSON  
JOHN D. THORLEIFSON  
DAVID L. TIDWELL  
RYAN C. TILLOTSON  
JOHN V. TOLLIVER  
ROBERT P. TORTORA  
TIMOTHY R. TRAMPENAU  
BRADDOCK W. TREADWAY  
WILLIAM M. TRIPLETT  
WADE D. TURVOLD  
MURRAY J. TYNCH III  
ROY C. UNDERSANDER  
LAWRENCE R. VASQUEZ  
GEORGE J. VASSILAKIS  
ERIC H. VENEMA  
DOUGLAS C. VERISSIMO  
DEAN M. VESELY  
DANIEL E. VOTH  
MICHAEL D. WALLS  
COLIN S. WALSH  
JAMES P. WATERS III  
ERIC F. WEILENMAN  
RANDAL T. WEST  
WILLIAM W. WHEELER III  
STEVEN J. WIEMAN  
JEFFREY S. WINTER  
ERIC K. WRIGHT  
BRIAN F. WYSOCKI  
JOHN D. ZIMMERMAN  
RICHARD J. ZINS  
THOMAS A. ZWOLFER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

JAMES F. ELIZARES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

STACY R. STEWART

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

STEPHEN E. MARONICK  
TAMARA A.L. SHELTON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

DANIEL T. BATES  
STEVEN R. BRITTON  
KATHLEEN T. JABS  
GARY P. KIRCHNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

GARY R. BARRON  
JANET M. BRISTOL  
STEVEN B. COLE  
ALLAN S. DUNLOP  
ROBERT C. ELROD  
EDWARDEEN M. JONES  
SCOTT J. KAWAMOTO  
RONALD S. KERR  
ALAN R. KERSEY  
JOEL A. MERRIMAN  
LEE H. MILLER II  
SCOTT P. MINKE  
RICHARD W. MYLLENBECK  
MICHAEL M. NORMILE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

JOSEPH R. DAVILA  
WILLIAM S. FRAILEY  
THANE GILMAN  
JOHN K. HAFNER  
MICHAEL J. KONDRACKI  
NEAL W. LEHTO  
CHARLES D. MCDERMOTT  
JOHN M. TARPEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

MARCIA R. FLATAU  
RAYMOND C. GAW  
ERIN P. HOLIDAY  
LINNEA J. SOMMERWEDDINGTON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

STEVEN W. HARRIS  
STEVEN J. SIMON  
GEORGE L. SNIDER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

PAUL C. BURNETTE  
STEPHEN S. JOYCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

MATTHEW B. AARON  
THOMAS P. MAYHEW  
DAVID M. SILLDORFF

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

DALE E. CHRISTENSON

MARK A. COTE  
GREGORY A. LEWIS  
CHARLES L. REYNOLDS  
CHRISTOPHER S. TROST  
FRANK VACCARINO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

THERESE D. CRADDOCK  
WILLIAM C. MARVEL  
ANTONIO OROPEZA  
LEITH S. WIMMER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

ROBERT A. BENNETT  
MATTHEW T. BERTA  
JASON B. BURKE  
VICTOR V. COOPER  
ANDREW P. COVERT  
JEFFREY S. DAVIS  
RONALD A. FLORENCE  
JOHN S. GORMAN  
ZACHARY S. HENRY  
ROBERT E. LEE  
LUIS A. MALDONADO  
MICHAEL L. MARLOWE  
JOHN J. MCCrackEN  
JAMES E. MCGOVERN  
ROGER L. MEEK  
JAMES L. MINTA  
WILLIAM H. PEVEY  
MARK W. SAMUELS  
JANET S. SCHOFIELD  
DANIEL B. UHLS  
KENNETH S. WRIGHT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE UNITED STATES NAVY  
RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

DONALD T. ALLERTON  
STEVEN M. ALLINDER  
MARK D. ALTOBELLO  
MARK T. ASSELIN  
PAUL K. AVERNA  
KRISTIN A. BAKKEGARD  
ROBERT E. BANKER, JR.  
JOHN V. BENNETT  
JONATHAN D. BLACKER  
JAMES P. BOLAND  
CHRISTOPHER C. BROWN  
JAMES H. BROWN  
JAMES CLUXTON  
DAVID J. COLE  
MICHAEL C. COLEMAN  
ROBERT D. CORRIGAN  
MICHAEL A. CZARNIK  
WILLIAM M. DARLING  
CHARLES J. DEGILIO  
DAVID F. DESANTO  
JAMES K. DETTBARN  
DAVID J. DIETZ  
SCOTT E. DONALDSON  
STEVEN P. DOUGLAS  
SHAWN E. DUANE  
BILLIE G. DUNLAP  
DAVID B. DURHAM  
DOROTHY S. E. ENGH  
MATTHEW J. FELT  
MICHAEL D. FIELDS  
MICHAEL J. FLYNN  
PHILIP M. FOWLER  
JOSEPH A. GAITHER  
DANIEL P. GAMACHE  
THOMAS A. GERETY  
JAMES M. GERLACH  
JACK A. GRANGER  
JAMES L. GRANT  
DARREN J. HANSON  
JAMES E. HARLAN  
KEVIN C. HAYES  
DANIEL B. HENDRICKSON

ARTHUR L. HENSLEY, JR.  
PHILIP G. HILTON  
WILLIAM W. HISCOCK  
MARK G. HORN  
DONALD W. HOWELL, JR.  
BRIAN S. HURLEY  
SCOTT D. JONES  
CLIFFORD J. KEENEY  
TERRENCE J. KEISIC  
CLAYTON M. KEMMERER  
EUGENE P. KIERNAN, JR.  
GREGORY J. KOLB  
KARIN A. KULINSKI  
ROBERT L. LARSON  
STEPHEN P. LEE  
PETER T. LISTON  
JAMES A. LITSCH, JR.  
JOSEPH R. LYON III  
ALAN M. LYTLE  
WILLIAM G. MAGER  
SANJAY D. MATHUR  
PATRICK E. MAYO  
JAY R. MILLS  
PATRICK J. MRACHEK  
ANDREW J. MUELLER  
KAREN R. NEWCOMB  
JEAN L. OBRIEN  
MARTIN P. OBRIEN, JR.  
PAUL G. PENDER  
SEAN F. REID  
WILLIAM J. REVAK  
JOHN A. RIAL  
JEFFREY J. RICHARDS  
DAVID A. ROBINSON  
DARIN K. ROBISON  
RICHARD A. RODRIGUEZ  
CRAIG W. ROEGNER  
KEVIN H. ROSS  
JAY M. ROVNIAC  
SCOTT C. RUMPH  
ERIC C. RUTTENBERG  
THOMAS A. RYER  
JOHN A. SCHOMMER  
JEROME T. SEBASTYN  
SCOTT C. SEEBERGER  
LAURIE T. SHEEHAN  
TIMOTHY P. SHERIDAN  
SCOTT R. SHIRE  
LARRY A. SMITH  
STERLING C. SMITH  
FRED A. SORRENTINO  
JAMES W. SPEICHER  
JAMES K. STOELZEL  
CALVIN E. TANCK  
CHRISTOPHER J. TARPEY  
HENRY C. TILLMAN  
EDWIN A. TYLER, JR.  
JUAN C. VIVAR  
STEVEN E. WHITMORE  
JAMES R. WILLIAMS  
STEVEN C. WILLIAMS  
ANDREW C. YENCHKO  
PAUL R. YOUNES  
JAMES B. ZEH  
JEFFREY W. ZIMMERMAN  
TODD A. ZVORAK

## CONFIRMATIONS

Executive nominations confirmed by  
the Senate May 14, 2009:

## DEPARTMENT OF STATE

PHILIP H. GORDON, OF THE DISTRICT OF COLUMBIA, TO  
BE AN ASSISTANT SECRETARY OF STATE (EUROPEAN  
AND EURASIAN AFFAIRS).

## EXPORT-IMPORT BANK OF THE UNITED STATES

FRED P. HOCHBERG, OF NEW YORK, TO BE PRESIDENT  
OF THE EXPORT-IMPORT BANK OF THE UNITED STATES  
FOR A TERM EXPIRING JANUARY 20, 2013.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT  
TO THE NOMINEES' COMMITMENT TO RESPOND TO RE-  
QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY  
CONSTITUTED COMMITTEE OF THE SENATE.